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REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 24, Issue 51
December 15, 2000

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ILLINOIS REGISTER

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Issue 16 - April 14, 2000: Data Through March 31, 2000	
Issue 29 - July 14, 2000: Data Through June 30, 2000	
Issue 42 - October 13, 2000: Data Through September 30, 2000	
Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)	

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2000

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 27, 1999	January 7, 2000	Issue 28	June 26	July 7
Issue 2	January 4, 2000*	January 14	Issue 29	July 3	July 14
Issue 3	January 10	January 21	Issue 30	July 10	July 21
Issue 4	January 18*	January 28	Issue 31	July 17	July 28
Issue 5	January 24	February 4	Issue 32	July 24	August 4
Issue 6	January 31	February 14**	Issue 33	July 31	August 11
Issue 7	February 7	February 18	Issue 34	August 7	August 18
Issue 8	February 14	February 25	Issue 35	August 14	August 25
Issue 9	February 22*	March 3	Issue 36	August 21	September 1
Issue 10	February 28	March 10	Issue 37	August 28	September 8
Issue 11	March 6	March 17	Issue 38	September 5*	September 15
Issue 12	March 13	March 24	Issue 39	September 11	September 22
Issue 13	March 15	March 26	Issue 40	September 18	September 29
Issue 14	March 20	March 31	Issue 41	September 25	October 6
Issue 15	March 27	April 7	Issue 42	October 2	October 13
Issue 16	April 3	April 14	Issue 44	October 10*	October 20
Issue 17	April 10	April 21	Issue 43	October 16	October 27
Issue 18	April 17	April 28	Issue 44	October 23	November 3
Issue 19	April 24	May 5	Issue 45	October 30	November 13**
Issue 20	May 1	May 12	Issue 46	November 6	November 17
Issue 21	May 8	May 19	Issue 47	November 13	November 27**
Issue 22	May 15	May 26	Issue 48	November 20	December 1
Issue 23	May 22	June 2	Issue 49	November 27	December 8
Issue 24	May 30*	June 9	Issue 50	December 4	December 15
Issue 25	June 5	June 16	Issue 51	December 11	December 22
Issue 26	June 12	June 23	Issue 52	December 18	December 29
Issue 27	June 19	June 30	Issue 1	December 26*	January 5, 2001

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Modified Guaranteed Annuity (MGA) Contracts
- 2) Code Citation: 50 Ill. Adm. Code 1410
- 3) Section Numbers: 1410.30
1410.60
Proposed Action: Amendment
Amendment
- 4) Statutory Authority: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401].
- 5) A Complete Description of the Subjects and Issues Involved: During its review of an insurance company's product filing, the Department was made aware of a discrepancy between the Department's regulation and the NAIC model. The proposed amendments will bring the Department's regulation into conformity with the NAIC model regulation.
- 6) Will this proposed amendment replace an emergency rulemaking currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- | | |
|---|---|
| James C. Rundblom
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8559 | or
Susan Anders
Paralegal
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8220 |
|---|---|
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed amendments will not affect small businesses, small municipalities or not for profit corporations.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: No new requirements.
- C) Types of professional skills necessary for compliance: No new requirements.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department did not anticipate the need to make these regulatory changes within the last six months.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1410
MODIFIED GUARANTEED ANNUITY (MGA) CONTRACTS

Section	Purpose
1410.10	Applicability
1410.20	Definitions
1410.30	Authority of Insurers
1410.40	Filing of Contracts
1410.50	Modified Guaranteed Annuity (MGA) Contract Requirements
1410.60	Reserve Liabilities
1410.70	Reports to Policyholders
1410.80	

AUTHORITY: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401].

SOURCE: Adopted at 21 Ill. Reg. 933, effective January 3, 1997; amended at 25 Ill. Reg. _____, effective _____.

Section 1410.30 Definitions

Adjusted Minimum Nonforfeiture Amount means the minimum nonforfeiture amount as defined in Section 229.4 of the Illinois Insurance Code [215 ILCS 5/229.4] adjusted by the Market Value Adjustment.

Appointed Actuary means any individual who is appointed or retained in accordance with the requirements set forth in 50 Ill. Adm. Code 1408.40(c) to provide the actuarial opinion and supporting memorandum as required by Section 223(1a) of the Illinois Insurance Code [215 ILCS 5/223(1a)].

Code means the Illinois Insurance Code [215 ILCS 5/1-et-seq].

Director means the Director of the Department of Insurance.

Insurance Producer means an individual licensed pursuant to Article XXXI of the Code [215 ILCS 5/Art. XXXI 499.1-et-seq.] who solicits, negotiates, effects, procures, renews, continues or binds modified guaranteed annuity contracts in this State.

Insurer means any insurance company which has delivered or issued for delivery in this State a modified guaranteed annuity contract.

Interest Credit means all interest that is credited to the contract.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Market Value Adjustment (MVA) means a formula specified in the contract which adjusts the cash value of the contract. It reflects changes in prevailing interest rates and the time remaining until the date on which the cash surrender value is available without adjustment.

Minimum Nonforfeiture Amount means the minimum nonforfeiture amount as defined in Section 229.4 of the Code [215 ILCS 5/229.4].

Modified Guaranteed Annuity (MGA) means a fixed annuity, or a fixed portion of a combination annuity, that is funded through the general account and provides for guaranteed cash-surrender values on specified dates or specified ages and with interim nonforfeiture cash-surrender values that are adjusted in accordance with an MVA.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 1410.60 Modified Guaranteed Annuity (MGA) Contract Requirements

a) Mandatory Contract Benefit and Design Requirements:

1) Any MGA contract delivered or issued for delivery in this State shall contain a statement of the procedures to be followed by the insurer in determining the dollar amount of nonforfeiture benefits.

2) No MGA contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains the following provisions:

A) A provision that there shall be a grace period of thirty-four (34) days or one month following the premium due date during which the contract shall remain in force and, within which any payment due to the insurer, other than the first, may be made. The contract may include a statement of the basis for determining the date as of which any such payment received during the grace period shall be applied to produce the values under the contract.

B) A provision that, at any time within one year from the date of default, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. Reinstatement may not occur if the cash value has been paid. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract.

3) The MVA formula, used in determining nonforfeiture benefits, must be stated in the contract and must be applicable for both upward and downward adjustments. When a contract is filed, it must be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

accompanied by an actuarial certification by a qualified actuary indicating the basis for the MVA formula and that the formula provides reasonable equity to both the contractholder and the insurer.

b) Nonforfeiture Benefits:

- 1) This subsection (b) shall not apply to any of the contracts excluded in Section 229.4(11) of the Code [215 ILCS 5/229.4(11)].
- 2) Any paid-up annuity benefit available under an MGA contract shall be such that its present value on the annuity commencement date is at least equal to the Adjusted Minimum Nonforfeiture Amount on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.
- 3) For MGA contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Adjusted Minimum Nonforfeiture Amount next computed after the request for surrender is received by the insurer. The death benefit under such contracts shall be at least equal to the cash surrender benefit. The contract may provide that the insurer may defer payment of such cash surrender benefit for a period of six-~~t~~ 6 months after demand.
- 4) Any MGA contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the Adjusted Minimum Nonforfeiture Amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.
- 5) For any MGA contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits (without regard to any surrender charges) or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the Adjusted Minimum Nonforfeiture Amount for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract.

c) The Application:

The application for an MGA shall prominently set forth language stating that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract. The statement shall be placed immediately above the signature line on the application.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sport Fishing Regulations for the Waters of Illinois

2) Code Citation: 17 Ill. Adm. Code 810

Section Numbers:	Proposed Action:
810.35	Amendment
810.37	Amendment
810.45	Amendment
810.70	Amendment

4) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

5) A Complete Description of the Subjects and Issues Involved: Changes to this Part are necessary for the maintenance and/or production of quality fisheries in State-managed waters. The changes include updating Statewide sportfishing regulations, amending individual site-specific fishing regulations, and updating the "Free Fishing Days" dates for the year 2001.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 810

SPORT FISHING REGULATIONS FOR THE WATERS OF ILLINOIS

Section

810.10	Sale of Fish and Fishing Seasons
810.20	Snagging
810.30	Pole and Line Fishing Only (Repealed)
810.35	Statewide Sportfishing Regulations - Daily Catch and Size Limits
810.37	Definitions for Site Specific Sportfishing Regulations
810.40	Daily Catch and Size Limits (Repealed)
810.45	Site Specific Water Area Regulations
810.50	Bait Fishing
810.60	Bullfrogs (Repealed)
810.70	Free Fishing Days
810.80	Emergency Protective Regulations
810.90	Fishing Tournament Permit
810.100	Bed Protection

AUTHORITY: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 751, effective January 8, 1981; codified at 5 Ill. Reg. 10647; amended at 6 Ill. Reg. 342, effective December 23, 1981; amended at 6 Ill. Reg. 7411, effective June 11, 1982; amended at 7 Ill. Reg. 209, effective December 22, 1982; amended at 8 Ill. Reg. 1564, effective January 23, 1984; amended at 8 Ill. Reg. 16769, effective August 30, 1984; amended at 9 Ill. Reg. 2916, effective February 26, 1985; emergency amendment at 9 Ill. Reg. 3825, effective March 13, 1985, for a maximum of 150 days; emergency expired August 10, 1985; amended at 9 Ill. Reg. 6181, effective April 24, 1985; amended at 9 Ill. Reg. 14291, effective September 5, 1985; amended at 10 Ill. Reg. 4835, effective March 6, 1986; amended at 11 Ill. Reg. 4638, effective March 10, 1987; amended at 12 Ill. Reg. 5306, effective March 8, 1988; emergency amendment at 12 Ill. Reg. 6981, effective April 4, 1988, for a maximum of 150 days; emergency expired September 1, 1988; emergency amendment at 12 Ill. Reg. 10525, effective June 7, 1988, for a maximum of 150 days; emergency expired November 4, 1988; amended at 12 Ill. Reg. 15982, effective September 27, 1988; amended at 13 Ill. Reg. 8419, effective May 19, 1989; emergency amendment at 13 Ill. Reg. 12643, effective July 14, 1989, for a maximum of 150 days; emergency expired December 11, 1989; emergency amendment at 13 Ill. Reg. 14085, effective September 4, 1989, for a maximum of 150 days; emergency expired February 1, 1990; emergency amendment at 13 Ill. Reg. 15118,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

effective September 11, 1989, for a maximum of 150 days; emergency expired February 8, 1990; amended at 14 Ill. Reg. 6164, effective April 17, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 17, 1990, for a maximum of 150 days; emergency expired September 19, 1990; amended at 14 Ill. Reg. 8588, effective May 21, 1990; amended at 14 Ill. Reg. 16863, effective October 1, 1990; amended at 15 Ill. Reg. 4699, effective March 18, 1991; emergency amendment at 15 Ill. Reg. 5430, effective March 27, 1991, for a maximum of 150 days; emergency expired August 24, 1991; amended at 15 Ill. Reg. 9977, effective June 24, 1991; amended at 15 Ill. Reg. 13347, effective September 3, 1991; amended at 16 Ill. Reg. 5267, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 6016, effective March 25, 1992, for a maximum of 150 days; emergency expired August 22, 1992; amended at 16 Ill. Reg. 12526, effective July 28, 1992; amended at 17 Ill. Reg. 3853, effective March 15, 1993; emergency amendment at 17 Ill. Reg. 5915, effective March 25, 1993, for a maximum of 150 days; emergency expired August 22, 1993; amended at 17 Ill. Reg. 10806, effective July 1, 1993; amended at 18 Ill. Reg. 3277, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 5667, effective March 25, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 12652, effective August 9, 1994; amended at 19 Ill. Reg. 2396, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5262, effective April 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10614, effective July 1, 1995; amended at 20 Ill. Reg. 4640, effective March 6, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 21 Ill. Reg. 9389; amended at 21 Ill. Reg. 4709, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 5590, effective April 15, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12140, effective August 26, 1997; amended at 22 Ill. Reg. 4930, effective March 2, 1998; amended at 23 Ill. Reg. 3434, effective March 8, 1999; emergency amendment at 23 Ill. Reg. 7317, effective June 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 8406, effective July 7, 1999; amended at 24 Ill. Reg. 3736, effective February 25, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 810.35 Statewide Sportfishing Regulations - Daily Catch and Size Limits

- a) Length is measured from the tip of the snout to the end of the tail with the fish laid flat on a ruler, with the mouth of the fish closed and the tail lobes pressed together.
- b) No fish species may be dressed (fileted or head and tail removed) on any waters to which length or bag limits are applicable. Regardless of where taken, no fish less than the specified minimum length or more than the daily catch shall be possessed while taking from, or on, any waters to which length or bag limits and/or daily catch limits apply. While taking from areas designated as "Catch and Release Only", all catch and release species must be immediately released back into the waters from which taken.
- c) Statewide limits by type of fish:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) **CHANNEL CATFISH**
There are no daily catch or size limits except in those waters listed under Site Specific Regulations.
- 2) **LARGemouth BASS, Smallmouth BASS, SPOTTED BASS**
Daily catch limit is 6 bass, either singly or in the aggregate, except as specified under Site Specific Regulations. In streams and rivers (excluding the mainstem of the Mississippi, Ohio and Wabash Rivers) the daily creel can contain no more than 3 smallmouth bass. There is no statewide size limit.
- 3) **MUSKELLUNGE, NORTHERN PIKE AND THEIR HYBRIDS**
 - A) All muskellunge and muskellunge hybrids (tiger muskie) taken must be 36 inches in total length or longer, except as specified under Site Specific Regulations.
 - B) No more than 1 muskellunge or muskellunge hybrid (tiger muskie), either singly or in the aggregate, may be taken per day, except as specified under Site Specific Regulations.
 - C) All northern pike taken must be 24 inches in total length or longer, except in the Mississippi River and Ohio River where there is no size limit.
 - D) No more than 3 northern pike may be taken per day, except as specified under Site Specific Regulations.
- 4) **CRAPPIE (WHITE, BLACK OR HYBRID CRAPPIE)**
There are no catch or size limits except in those waters listed under Site Specific Regulations.
- 5) **BLUEGILL AND REDDAR SUNFISH**
There are no catch or size limits except in those waters listed under Site Specific Regulations.
- 6) **STRIPED BASS (OCEAN ROCKFISH), WHITE BASS AND GYBRIDS**
There are no daily catch limits or minimum size limits for striped bass (ocean rockfish), white bass, and their hybrids, which are less than 17 inches in total length, except in those waters listed under Site Specific Regulations. For these fish 17 inches in total length or longer, the daily limit is 3 fish, either singly or in the aggregate, except in the Mississippi River between Illinois and Missouri where there is a 30 fish daily creel limit for all striped, white, or hybrid striped bass.
- 7) **TROUT AND SALMON**
Daily catch limit is 5 trout or salmon, either singly or in the aggregate.
- 8) **WALLEYE, SAUGER OR THEIR HYBRID**
 - A) All walleye, sauger, or their hybrid taken must be 14 inches in total length or longer, except in the Mississippi River, Ohio River, Wabash River, or as specified under Site Specific Regulations.
 - B) Daily catch limit is 6 walleye, sauger or their hybrid, either singly or in the aggregate, except in those waters listed under Site Specific Regulations.
- 9) **RIVER RUFFE**

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

There are no catch or size limits. Possession of living river ruffe is prohibited.

- 10) GOBIES (ROUND, tubenose)

There are no catch or size limits. Possession of living gobies is prohibited.

- 11) RUSTY CRAYFISH

Possession of living rusty crayfish is prohibited for all except the holders of an approved aquaculture permit with a letter of authorization to import/possess this species.

- 12) RUDD

There are no catch or size limits. Possession of living rudd is prohibited.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 810.37 Definitions for Site Specific Sportfishing Regulations

- a) Site Specific Regulations are listed by water area affected. The coverage of the regulation is dictated by the extent of the water area listed and not by the county. In some cases, regulations for a given water area or site may extend beyond the counties listed. The counties listed refer to the location of the dam or outfall for impoundments or mouths of small streams. Since large rivers or streams usually flow through many counties, the term "Multiple" is used rather than listing all counties where the large stream or river flows.

- b) The subsections listed below are referred to by number in Section 810.45. Each water area listed in Section 810.45 has numbers in parenthesis which explain all of the definitions in this Section which apply to that water area.

- 1) Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures attached while fishing, except that legal size cast nets, (in accordance with subsection 810.50(a)(1)) shad scoops, and minnow seines may be used to obtain shad, minnows, and crayfish to use as bait, provided that they are not sold.

- 2) All jugs set in a body of water shall be under the immediate supervision of the fisherman. Immediate supervision shall be defined as the fisherman being on the water where the jugs are set and readily available to identify jugs to law enforcement officers. ~~Possession of yellow perch under 8 inches in total length or over 10 inches in total length may be harvested.~~

- 3) All largemouth and smallmouth bass taken must be less than 12 inches in total length or greater than 15 inches in total length. Except that sport fishermen shall be allowed to use trotlines, jugs, and by hand, except that the use and aid of underwater breathing devices is prohibited. West of Wolf Creek Road,

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fishing from boats is permitted all year. Trotlines/jugs must be removed from sunrise until sunset from Memorial Day through Labor Day. East of Wolf Creek Road, fishing from boats is permitted from March 15 through September 30. Fishing from the bank is permitted all year only at the Wolf Creek and Route 148 causeways. On the entire lake, jugs and trotlines must be checked daily and must be removed on the last day they are used. It is illegal to use stakes to anchor any trotlines; they must be anchored only with portable weights and must be removed on the last day they are used. The taking of carp and buffalo with bow and arrow is permissible.

- 5) Except that sport fishermen may take carp, carpsuckers, buffalo, gar, bowfin and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices.

- 6) Including the Fox River south of the Illinois-Wisconsin line to the McHenry Dam.

- 7) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs or spears during May and June.

- 8) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass either singly or in the aggregate.

- 9) Catch and Release Fishing Only means that fish (all or identified species) caught must be immediately released alive and in good condition back into the water from which it came.

- 10) It shall be illegal to process trout during the period of October 1 to 5 a.m. on the third Saturday in October (both dates inclusive) which were taken during that period.

- 11) It shall be illegal to possess trout during the period of March 15 to 5 a.m. on the 1st Saturday in April (both dates inclusive) which were taken during that period.

- 12) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 6 fish per day, no more than one of which shall be greater than 15 inches in length and none of which shall be greater than 12 inches and less than or equal to 15 inches in length.

- 13) Except that jug fishing is permitted from the hours of sunset to sunrise, and except that carp and buffalo may be taken by bow and arrow devices from May 1 through September 30. All jugs must have owner's/user's name and complete address affixed.

- 14) Daily catch limit includes all fish species (either singly or in the aggregate) caught within each of the following fish groupings.

- A) Largemouth or Smallmouth Bass
B) Walleye, Sauger, or their hybrid
C) Bluegill or Redear Sunfish
D) Channel or Blue Catfish
15) Daily catch limit includes white, black, or hybrid crappie either singly or in the aggregate.

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- 16) Daily catch limit includes Striped Bass, White Bass and Hybrid Striped Bass either singly or in the aggregate.
- 17) Daily catch limit shall not exceed 10 fish daily, no more than 3 of which may be 17 inches or longer in length.
- 18) Except that sport fishermen shall be allowed to use trotlines, jugs and bank poles; and carp, carsuckers and buffalo may be taken by bow and arrow, bow and arrow devices, gigs and spears in the portions of the lake that lie north of the Davenport Bridge and northeast of the Parnell Bridge.
- 19) No fishing within 250 yards of an occupied waterfowl blind (within the hunting area) on all Department-owned or -managed sites.
- 20) Carlyle Lake (including its tributary streams and those portions of the Kaskaskia River and Hurricane Creek up the U.S. Army Corps of Engineers Carlyle Lake Project boundaries), U.S. Army Corps of Engineers, Bond, Clinton, and Fayette Counties.
- 21) Lake Shelbyville (including its tributary streams and those portions of the West Okaw and Kaskaskia Rivers up to Lake Shelbyville Project boundaries), U.S. Army Corps of Engineers, Shelby and Moultrie Counties.
- 22) Rend Lake (including its tributary streams and those portions of the Big Muddy and Casey Fork Rivers up to the Rend Lake Project boundaries), Rend Lake Project Ponds, U.S. Army Corps of Engineers, Franklin and Jefferson Counties.
- 23) Lake Vermillion and the portion of the North Fork of the Vermillion River between the Lake Vermillion Dam and the Interstate Water Company's Pump Station Spillway, Vermillion County Conservation District, Vermillion County.
- 24) 10 Fish Daily Creel Limit of which no more than 6 may be walleye.
- 25) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish per day, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 15 inches in total length.
- 26) Lake Vermillion - Trot line and jug finishing allowed north of Boiling Springs Road.
- 27) Except that bank fishing is prohibited. Boat fishing is permitted May 1 through August 31 during the hours of 2:00 p.m. to 8:00 p.m. See site for additional regulations and exact opening and closing dates.
- 28) Except that trotlines may be set within 300 feet from shore.
- 29) Except that carp, buffalo, suckers and carsuckers may be taken by means of pitchfork and gigs (no bow and arrow devices).
- 30) Fishing is permitted from March 15 through September 30, both dates inclusive, from sunrise to sunset. Fishing during all other times of the year is illegal and not permitted.
- 31) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of

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- which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 12 inches in total length.
- 32) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass, either singly or in the aggregate, no more than 4 of which may be 15 inches or longer in length.
- 33) It shall be unlawful to enter upon a designated waterfowl hunting area during the 7 days prior to the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of the regular duck season through the end of duck and Canada goose season.
- 34) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs, or spears from May 1 through August 31.
- 35) Daily catch limit for Walleye, Sauger, or Hybrid Walleye, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be greater than 24 inches in total length and no more than 2 of which may be less than 18 inches in total length and greater than or equal to 14 inches in total length.
- 36) Except that sportfishermen may not use a minnow seine for bait collecting in Cook County Forest Preserve District Waters (except in the Des Plaines River).
- 37) All largemouth and smallmouth bass taken must be less than 12 inches in total length or greater than 16 inches in total length. Only 1 bass greater than 16 inches and 2 bass less than 12 inches may be taken in the creel daily.
- 38) All largemouth and smallmouth bass taken must be less than 14 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 5 bass less than 14 inches may be taken in the creel daily.
- 39) Powerton Lake shall be closed to boat traffic, except for legal waterfowl hunters, from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during the regular goose and duck season.
- 40) The 48 inch total length limit on pure muskellunge applies to that body of water listed as well as any tailwaters as defined below:

Evergreen Lake (McLean County) - including the portion of Six Mile Creek below the Evergreen Lake Dam downstream to its confluence with the Mackinaw River.

Fox Chain O' Lakes (Lake/McHenry Counties) - including those portions of the Fox River below the McHenry Dam downstream to the Route 176 Bridge and upstream to the Wisconsin - Illinois State line.

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Fulton County	
Andover Lake, City of Andover	
Henry County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Apple River	
Jo Daviess County	
Trout	- Spring Closed Season (11)
Apple River Basin - Special Management Zone (within the boundaries of Apple River Canyon State Park, including tributaries)	
Jo Daviess County	
All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Argyle Lake, Argyle Lake State Park	
McDonough County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Hybrid Walleye	- 3 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish more than 15" and/or 5 less than 12" Daily (12)
Trout	- Fall Closed Season (10)
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
Arrowhead Heights Lake, Village of Camp Point	
Adams County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Arrowhead Lake, City of Johnston City	
Williamson County	
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Ashland City Reservoir, City of Ashland	
Cass County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit

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- Kinkaid Lake (Jackson County) - including the portion of Kinkaid Creek below the Kinkaid Lake Dam downstream to the Route 149 Bridge.
- Lake Shelbyville (Moultrie/Shelby Counties) - including the portion of the Kaskaskia River below the Lake Shelbyville Dam downstream to the State Route 128 Road Bridge near Cowden.
- Lake Vermilion (Vermilion County) - including the portion of the North Fork of the Vermilion River below the Lake Vermilion Dam downstream to its confluence with the Vermilion River.
- Otter Lake (Macoupin County) - including the portion of Otter Creek below Otter Lake Dam downstream to its confluence with East Otter Creek.
- Pierce Lake (Winnebago County) - including the portion of Willow Creek below the Pierce Lake Dam downstream to Forest Hills Road.
- Shabbona Lake (DeKalb County) - including that portion of Indian Creek below the Shabbona Lake Dam downstream to Shabbona Grove Road.
- Spring Lakes (North and South) (Tazewell County) - no tailwaters.
- 41) It shall be unlawful to enter upon areas designated as waterfowl hunting areas during the 7 days prior to the start of the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 10 days prior to the start of the regular duck season through the end of duck and Canada goose season.
- 42) During duck season, walk-in only access for fishing from the bank is permitted after 1:00 p.m.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 810.45 Site Specific Water Area Regulations

Fishing regulations, including species of fish, fishing methods and daily catch limits are listed for each water area. The numbers in parentheses refer to the corresponding numbered definitions in Section 810.37 of this Part. If a water area is not listed or if a specific species is not listed, then state-wide restrictions apply. Check the bulletin boards at the specific site for any emergency changes to regulations.

Anderson Lake Fish and Wildlife Area (33)

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Ashley Reservoir, City of Ashley

Washington County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length

Auburn Park Lagoon, Chicago Park District

Cook County

- All Fish
- Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Axehead Lake, Cook County Forest Preserve

Cook County

- All Fish
- Large or Smallmouth Bass
- Trout
- Trout
- 2 Pole and Line Fishing Only (1)
- (36)
- 14" Minimum Length Limit
- Fall Closed Season (10)
- Spring Closed Season (11)

Baker Lake, City of Peru

LaSalle County

- All Fish
- Bluegill or Redear Sunfish (14)
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit

Baldwin Lake, Baldwin Lake Conservation Area

Randolph County

- All Fish
- Large or Smallmouth Bass
- Striped, White, or Hybrid
- Striped Bass
- Striped, White, or Hybrid
- Striped Bass (16)
- White, Black, or Hybrid
- Crappie (15)
- White, Black, or Hybrid
- Crappie
- 2 Pole and Line Fishing Only
- (1)(5)
- 18" Minimum Length Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit
- 9" Minimum Length Limit

Banana Lake, Lake County Forest Preserve District

Lake County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass (14)
- Large or Smallmouth Bass
- Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Fall Closed Season (10)

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Trout

- Spring Closed Season (11)

Banner Marsh Lake & Ponds, Banner Marsh State Fish and Wildlife Area (33)

Peoria/Fulton Counties

- All Fish
- 2 Pole and Line Fishing
- Only (1)(34)

Channel Catfish

Large or Smallmouth Bass (14)

Large or Smallmouth Bass

- 6 Fish Daily Creel Limit
- 3 Fish Daily Creel Limit
- 12"-18"
- Protected Slot Length Limit
- (no possession)
- 42" Minimum Length Limit

Pure Muskellunge

White, Black, or Hybrid

Crappie (15)

White, Black, or Hybrid

Crappie

- 25 Fish Daily Creel Limit
- 9" Minimum Length Limit

Batchtown Wildlife Management Area (33)

Calhoun County

Baumann Park Lake, City of Cherry

Valley

Winnebago County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit

Beall Woods Lake, Beall Woods Conservation Area

Wabash County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Trout
- Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Spring Closed Season (11)
- Fall Closed Season (10)

Beaver Dam Lake, Beaver Dam State Park

Macoupin County

- All Fish
- Bluegill or Redear Sunfish (14)
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- Trout
- White, Black, or Hybrid
- Crappie (15)
- White, Black, or Hybrid
- Crappie
- 2 Pole and Line Fishing Only (1)
- 25 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Fall Closed Season (10)
- 10 Fish Daily Creel Limit
- 9" Minimum Length Limit

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Beck Lake, Cook County Forest Preserve District

Cook County

- All Fish
 - 2 Pole and Line Fishing Only (1)(36)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
- Channel Catfish
 - 18" Minimum Length Limit
- Large or Smallmouth Bass
 - 18" Minimum Length Limit
- Walleye, Sauger, or Hybrid
 - 18" Minimum Length Limit
- Walleye
 - 18" Minimum Length Limit

Belk Park Pond, City of Wood River

Madison County

- Channel Catfish
 - 6 Fish Daily Creel Limit
 - 18" Minimum Length Limit
- Large or Smallmouth Bass
 - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass (14)
 - 1 Fish Daily Creel Limit

Belleau Lake, Cook County Forest Preserve District

Cook County

- All Fish
 - 2 Pole and Line Fishing Only (36)
 - 14" Minimum Length Limit
- Large or Smallmouth Bass
 - Fall Closed Season (10)
- Trout
 - Spring Closed Season (11)

Bevier Lagoon, Waukegan Park District

Lake County

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Channel Catfish
 - 6 Fish Daily Creel Limit

Bird Park Quarry, City of Kankakee

Kankakee County

- Trout
 - Fall Closed Season (10)
- Trout
 - Spring Closed Season (11)

Bowen Lake, City of Washington

Tazewell County

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Channel Catfish
 - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass
 - 12"-15" Protected Slot Length Limit (no possession)

Large or Smallmouth

- Bass (14)
 - 3 Fish Daily Creel Limit

Borah Lake, City of Olney

Richland County

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Channel Catfish
 - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass
 - 14" Minimum Length Limit

Boston Pond, Stephen A. Forbes State Park

Macoupin County

- All Fish
 - 2 Pole and Line Fishing Only (1)

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Marion County

- Trout
 - Fall Closed Season (10)
- Trout
 - Spring Closed Season (11)

Braidwood Lake State Fish and Wildlife Area (41)

Will County

(Braidwood Lake is closed to all fishing and boat traffic, except for legal waterfowl hunters, from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season)

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass
 - 15" Minimum Length Limit
- Large or Smallmouth Bass (14)
 - 3 Fish Daily Creel Limit
- Striped, White, or Hybrid
 - 17" Minimum Length Limit
- Striped Bass
 - 17" Minimum Length Limit
- Striped, White, or Hybrid
 - 3 Fish Daily Creel Limit
- White, Black, or Hybrid
 - 10 Fish Daily Creel Limit
- Crappie (15)
 - 10 Fish Daily Creel Limit

Breeze JC's Park Pond, City of Breeze

Clinton County

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Channel Catfish
 - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass
 - 15" Minimum Length Limit
- Bass (14)
 - 3 Fish Daily Creel Limit

Buckner City Reservoir, City of Buckner

Franklin County

- All Fish
 - 2 Pole and Line Fishing Only (1)
- Channel Catfish
 - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass
 - 15" Minimum Length Limit

Bullfrog Lake, Cook County Forest Preserve District

Cook County

- All Fish
 - 2 Pole and Line Fishing Only (1)(36)
- Large or Smallmouth Bass
 - 14" Minimum Length Limit
- Bluegill or Redear
 - 8" Minimum Length Limit
- Sunfish
 - 10 Fish Daily Creel Limit
- Bluegill or Redear
 - 10 Fish Daily Creel Limit
- Sunfish (14)
 - 10 Fish Daily Creel Limit

Bunker Hill Lake, City of Bunker Hill

Macoupin County

- All Fish
 - 2 Pole and Line Fishing Only (1)

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Channel Catfish - 6 Fish Daily Creel Limit

Burrells Wood Park Pond
White County
Channel Catfish - 6 Fish Daily Creel Limit

Busse Lake, Cook County Forest Preserve
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Cache River State Natural Area (19)
Pulaski/Johnson Counties

Calhoun Point Wildlife Management Area (33)
Calhoun County

Calumet River
Cook County
Yellow Perch
~~Yellow-Perch~~
~~Limit-(2)---Possession-of~~
~~Yellow-perch-under-8"-or-over-10"~~
~~is-prohibited~~
- Closed During July June

Campbell Pond Wildlife Management Area (19)
Jackson County

Campus Lake - Southern Illinois University, State of Illinois
Jackson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Campus Pond - Eastern Illinois University, State of Illinois
Coles County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

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Canton Lake, City of Canton
Fulton County
All Fish - 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Carbondale City Reservoir, City of Carbondale
Jackson County
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Carlinville Lake #2, City of Carlinville
Macoupin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Carlton Silt Basin, State of Illinois
Whiteside County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Large or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Large or Smallmouth Bass - Catch and Release Fishing Only (9)

Carlyle Lake, U.S. Army Corps of Engineers (20) (33)
Clinton/Bond/Fayette Counties
Large or Smallmouth Bass - 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Carthage Lake, City of Carthage
Hancock County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Cedar Lake, U.S. Forest Service and
City of Carbondale
Jackson County (19)
All Fish - 2 Pole and Line Fishing Only (1)
(5)
Large or Smallmouth Bass - 14"-18" Protected Slot Length Limit (no possession)
Large or Smallmouth Bass - 2 Fish Under 14" and 2 Fish Over 18" Daily Creel Limit
Striped, White, or Hybrid

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- Clinton Lake, Clinton Lake State Recreation Area (19)
Dewitt County
All Fish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Striped, White, or Hybrid
Striped Bass (16)
White, Black, or Hybrid
Crappie (15)
White, Black, or Hybrid
Crappie
Coffeen Lake, Coffeen Lake State Fish and Wildlife Area
Montgomery County
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
White, Black, or Hybrid
Crappie (15)
White, Black, or Hybrid
Crappie
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
Coles County Airport Lake, Coles County Airport
Coles County
All Fish
Channel Catfish
Large or Smallmouth Bass
Coleta Trout Pond, State of Illinois
Whiteside County
Trout
Trout
Columbus Park Lagoon, Chicago Park District
Cook County
All Fish
Channel Catfish
Cook Co. F.P.D. Lakes, Cook County Forest Preserve District
Cook County
- 2 Pole and Line Fishing Only (1)(18)
 - 16 " Minimum Length Limit
 - 3 Fish Daily Creel Limit
 - 10 Creel/3 Fish 17" or Longer Daily (17)
 - 15 Fish Daily Creel Limit
 - 9" Minimum Length Limit
 - All jugs must be attended at all times while fishing (2)
 - 15" Minimum Length Limit
 - 3 Fish Daily Creel Limit
 - 10 Fish Daily Creel Limit
 - 9" Minimum Length Limit
 - 17" Minimum Length Limit
 - 3 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - Fall Closed Season (10)
 - Spring Closed Season (11)
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

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- All Fish
Large or Smallmouth Bass
Coulterville City Lake, City of Coulterville
Randolph County
All Fish
Channel Catfish
Crab Orchard National Wildlife Refuge - Crab Orchard Lake, U.S. Fish and Wildlife Service (19)
Williamson County
All Fish
Striped, White, or Hybrid
Striped Bass (16)
Large or Smallmouth Bass
Crab Orchard National Wildlife Refuge - Devil's Kitchen Lake, U.S. Fish and Wildlife Service (19)
Williamson County
All Fish
Crab Orchard National Wildlife Refuge - Little Grassy Lake, U.S. Fish and Wildlife Service (19)
Williamson County
All Fish
Channel Catfish
Large or Smallmouth Bass
Crab Orchard National Wildlife Refuge. Refuge Ponds (except Visitor Pond), U.S. Fish and Wildlife Service
Williamson County
All Fish
Large or Smallmouth Bass
Crab Orchard National Wildlife Refuge. Visitor Pond, U.S. Fish and Wildlife Service
Williamson County
All Fish (30)
Large or Smallmouth Bass
Crawford Co. Cons. Area - Picnic Pond, Crawford County Conservation Area
Crawford County
All Fish
Channel Catfish
Large or Smallmouth Bass
Trout
- 2 Pole and Line Fishing Only (1)
 - 14" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)(4)
 - 10 Creel/3 Fish 17" or Longer Daily (17)
 - 15" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 12-15" Slot Length Limit (3)
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 15" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 5)
 - 21" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit
 - Fall Closed Season (10)

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Crawford Co. Cons. Area Ponds, Crawford County Conservation Area
Crawford County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit

Crull Impoundment Wildlife Management Area (33)
Jersey County
Crystal Lake, Urbana Park District
Champaign County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Dawson Lake & Park Ponds, Moraine View State Park
McLean County
All Fish
Bluegill or Redear Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Walleye, Sauger, or Hybrid
Walleye (14)
White, Black or Hybrid Crappie
White, Black or Hybrid
Crappie (15)
- 2 Pole and Line Fishing Only (1)
- 25 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 9" Minimum Length Limit
- 15 Fish Daily Creel Limit

Decatur Park Dist. Ponds, City of Decatur
Macon County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Deep Pit Lake, Boone County Conservation District
Boone County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit

Defiance Lake, Moraine Hills State Park
McHenry County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 3 Fish Daily Creel Limit

Des Plaines River Basin - Special Management Zone (Hoffman Dam to 47th Street Bridge, including tributaries)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Cook County
Channel Catfish
Channel Catfish
Large or Smallmouth Bass
- 15" Minimum Length Limit
- 6 Fish Daily Creel Limit
- Catch and Release Only - No Harvest Permitted (9)
- 30" Minimum Length Limit
- 1 Fish Daily Creel Limit
- 10 Fish Daily Creel Limit
- 18" Minimum Length Limit
- 1 Fish Daily Creel Limit

Des Plaines River Conservation Area (19)
Will County
Diamond Lake, City of Mundelein
Lake County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

Dog Island Wildlife Management Area (19)
Pope County
Dolan Lake, Hamilton County
Conservation Area
Hamilton County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

Donnelley State Wildlife Area (33)
Bureau County
Douglas Park Lagoon, Chicago Park District
Cook County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

DuPage County Forest Preserve District Lakes and Ponds, DuPage County Forest Preserve District

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

DuPage County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

DuPage River - West Branch (between the dams located in the McDowell Grove Forest Preserve and the Warrenville Grove Forest Preserve)
 DuPage County
 Large or Smallmouth Bass - Catch and Release Fishing Only (9)

East Fork Lake, City of Olney
 Richland County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit
 White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Elgon Hazlet State Park (19) (See Also Carlyle Lake)
 Clinton County

Elkville City Reservoir, City of Elkville
 Jackson County
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Elliott Lake, Wheaton Park District
 DuPage County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit

Evergreen Lake, City of Bloomington
 McLean County
 All Fish - 2 Pole and Line Fishing Only (1)
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Pure Muskellunge - 48" Minimum Length Limit (40)
 White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Faries Park Pond, City of Decatur
 Macon County
 Trout - Fall Closed Season (10)

Ferne Clyffe Lake, Ferne Clyffe State Park
 Johnson County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Flatfoot Lake, Cook County Forest Preserve District
 Cook County
 All Fish - 2 Pole and Line Fishing Only (1)(36)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit

Foli Park Pond, Village of Plano
 Kendall County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit

Forbes State Lake, Stephen A. Forbes State Park
 Marion County
 All Fish - 2 Pole and Line Fishing Only (1)(5)
 Bluegill or Redear Sunfish - 8" Minimum Length Limit
 Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit
 Striped Bass - 17" Minimum Length Limit
 Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Forbes State Park Ponds, Stephen A. Forbes State Park
 Marion County
 All Fish - 2 Pole and Line Fishing Only (1)(5)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit

Forest Park Lagoon, City of Shelbyville
 Shelby County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Fort de Chartres Historic Site (19)
 Randolph County

Four Lakes, Winnebago County Forest Preserve

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Winnebago County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Fox Chain O'Lakes (including the Fox River south of the Wisconsin-Illinois boundary to the McHenry Dam) (6) (Applies to Grass Lake and Nippersink Lake State Managed Blind Areas Only (19)), State of Illinois
Lake and McHenry Counties
Large or Smallmouth Bass
Pure Muskellunge
Walleye, Sauger, or Hybrid Walleye
- 14" Minimum Length Limit
- 48" Minimum Length Limit (40)
- 14" Minimum Length Limit with an 18-24" Protected Slot Length Limit (no possession) (6)
- 2 Fish >or=14" and <18" &/or 1 Fish >24" Daily Creel Limit (35)
- Walleye, Sauger, or Hybrid Walleye (14)
- 2 Fish >or=14" and <18" &/or 1 Fish >24" Daily Creel Limit (35)
- Fox Ridge State Park (see also Wilderness Pond and Ridge Lake) (19)
Coles County
Fox River Basin - Special Management Zone (North Aurora Dam to Montgomery Dam, including tributaries)
Kane County
Large or Smallmouth Bass
- 14" Minimum Length Limit
- Fox River Basin - Special Management Zone (South Elgin Dam to North Aurora Dam, including tributaries)
Kane County
Large or Smallmouth Bass
- Catch and Release Only - No Harvest Permitted (9)
- Frank Holten Lakes, Frank Holten State Park
St. Clair County
All Fish
Channel Catfish
Large or Smallmouth Bass
Trout
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Fall Closed Season (10)
- Spring Closed Season (11)
- Franklin Creek (within the boundaries of Franklin Creek State Natural Area)
Lee County
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)
- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- All Fish
Fuller Lake (19)
Calhoun County
- 2 Pole and Line Fishing Only (1)(9)
- Fulton County
Fulton County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Bass (14)
Blue gill or Redear Sunfish (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 12"-15" Protected Slot Length Limit (no possession)
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit
- Gages Lake, Wildwood Park District
Lake County
All Fish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Walleye, Sauger, or Hybrid Walleye
Walleye, Sauger, or Hybrid Walleye (14)
- 2 Pole and Line Fishing Only (1)
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 16" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Garfield Park Lagoon, Chicago Park District
Cook County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Gebhard Woods Ponds, Gebhard Woods State Park
Grundy County
All Fish
Channel Catfish
Large or Smallmouth Bass
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Spring Closed Season (11)
- Giant City Park Ponds, Giant City State Park
Jackson and Union Counties
Largemouth and Spotted Bass
- 15" Minimum Length Limit
- Gillespie New City Lake, City of Gillespie
Macoupin County
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)
- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Gillespie Old City Lake, City of Gillespie

Macoupin County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

Glades - 12 Mile Island Wildlife Management Area (33)

Jersey County

Gladstone Lake, Henderson County Conservation Area

Henderson County

- All Fish
- Bluegill or Redear Sunfish (14)
- Channel or Blue Catfish (14)
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)
- 3 Fish Daily Creel Limit

Glen Oak Park Lagoon, Peoria Park District

Peoria County

- All Fish
- Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Glen Shoals Lake, City of Hillsboro

Montgomery County

- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- Striped, White, or Hybrid
- Striped Bass
- Striped, White, or Hybrid
- Striped Bass (16)
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit

Godar-Diamond/Hurricane Island Wildlife Management Area (33)

Calhoun County

Gompers Park Lagoon, Chicago Park District

Cook County

- All Fish
- Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Gordon F. More Park Lake, City of Alton

Madison County

- All Fish
- Bluegill or Redear
- Sunfish (14)
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth
- 2 Pole and Line Fishing Only (1)
- 25 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Bass (14)

- 3 Fish Daily Limit

Governor Bond Lake, City of Greenville

Bond County

All-Fish

- Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- All jugs must be attended at all times while fishing (2)
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit

Large or Smallmouth Bass

Large or Smallmouth Bass (14)

Striped, White, or Hybrid

Striped Bass

Striped, White, or Hybrid

Striped Bass (16)

White, Black, or Hybrid

Crappie (15)

Grayslake Park District (Grayslake and Park Ponds)

Lake County

All Fish

- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth
- Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

Greenfield City Lake, City of Greenfield

Greene County

All Fish

- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 12"-15" Protected Slot Length Limit (no possession)
- 5 Fish Under 12" and 1 Fish Over 15" Daily Creel Limit

Greenville Old City Lake, City of Greenville

Bond County

All Fish

- Channel Catfish
- Trout
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Fall Closed Season (10)
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

Harrisburg New City Reservoir, City of Harrisburg

Saline County

All Fish

- Channel Catfish
- Striped, White, or
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Hybrid Striped Bass
Striped, White or
Hybrid Striped Bass (16)
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Harrisburg Holding Pits North and South, City of Harrisburg
Saline County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Heidecke Lake, Heidecke Lake State Fish and Wildlife Area
Grundy County (41)
(Heidecke Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season)
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Striped, White, or Hybrid
Striped Bass (16)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid
Walleye
Walleye, Sauger, or Hybrid
Walleye (14)
- 22" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Helmbold Slough (19)
Calhoun County
Hennepin Canal-Mainline & Feeder, Hennepin Canal Parkway State Park
Multiple Counties
All Fish
Large or Smallmouth Bass
Trout
Trout
- 2 Pole and Line Fishing
Only (1)(13)
- 14" Minimum Length Limit
- Fall Closed Season (10)
- Spring Closed Season (11)
- Herrin Lake #1, City of Herrin
Williamson County
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Herrin Lake #2, City of Herrin
Williamson County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Hidden Springs State Forest Ponds, Hidden Springs State Forest
Shelby County
All Fish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 18" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Highland Old City Lake, City of Highland
Madison County
All Fish
Channel Catfish
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Fall Closed Season (10)
- Hillsboro Old City Lake, City of Hillsboro
Montgomery County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)
- Homer Guthrie Pond - Eldon Hazlet State Park, State of Illinois
Clinton County
All Fish
Channel Catfish
Bluegill or Redear
Sunfish (14)
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Homer Lake, Champaign County Forest Preserve District
Champaign County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Hornel Pond, Donnelly State Fish and Wildlife Area
Bureau County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing
Only (1)(5)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Horseshoe Lake-Alexander Co., Horseshoe Lake Conservation Area
Alexander County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(Only trolling motors in refuge from October 5-March 1)
 All Fish - 2 Pole and Line Fishing Only (1)
 (5)

Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit

Horseshoe Lake-Madison County, Horseshoe Lake State Park (33)

Madison County

All Fish - 2 Pole and Line Fishing Only

(1)(28)(34)

Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
 White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Horton Lake, Nauvoo State Park

Hancock County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Hulit Park Big Lake, Canton Park District

Fulton County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Humbolt Park Lagoon, Chicago Park District

Cook County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Illinois & Michigan Canal, State of Illinois

Grundy/LaSalle/Will Counties

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

Trout - Spring Closed Season (11)

Illinois Beach State Park Ponds, Illinois Beach State Park

Lake County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Illinois Department of Transportation Lake, State of Illinois

Sangamon County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass - 15" Minimum Length Limit
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Illinois River - Pool 26 (19)

Calhoun County

Illinois River, State of Illinois

Multiple Counties

Large or Smallmouth Bass - 12" Minimum Length Limit

Independence Grove Lake, Lake County Forest Preserve District

Lake County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Pure Muskellunge - 48" 36" Minimum Length Limit

Indian Boundary South Pond, Frankfort Square Park District

Will County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Jackson Park (Columbia Basin) Lagoon, Chicago Park District

Cook County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Jim Edgar/Panther Creek Fish and Wildlife Area, All Lakes and

Ponds, Jim Edgar/Panther Creek Fish and Wildlife Area

Cass County

All Fish

Bluegill or Redear Sunfish

Bluegill or Redear Sunfish (14)

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 8" Minimum Length Limit
 - 10 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit

Large or Smallmouth Bass (14)

Large or Smallmouth Bass

Jim Edgar/Panther Creek Fish and Wildlife Area, Gurney Road Pond,

Jim Edgar/Panther Creek Fish and Wildlife Area

Cass County

All Fish

Bluegill or Redear Sunfish

Bluegill or Redear Sunfish (14)

Channel Catfish

- 2 Pole and Line Fishing Only (1)
 - 8" Minimum Length Limit
 - 10 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit

Large or Smallmouth Bass

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass (14)
Trout
- 3 Fish Daily Creel Limit
- Spring Closed Season (11)

Johnson Sauk Trail Lake & Pond, Johnson Sauk Trail State Park

Henry County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

Jones Park Lake, City of East St. Louis

St. Clair County
All Fish
Channel Catfish
Trout
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Fall Closed Season (10)
- Spring Closed Season (11)

Jones State Lake, Saline County Conservation Area

Saline County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14"-18" Protected Slot Length Limit (no possession) (38)
- 5 Fish under 14" and 1 Fish over 18" Daily Creel Limit

Jones Lake Trout Pond, Saline County Conservation Area

Saline County
Trout
- Fall Closed Season (10)

Jubilee College State Park Ponds,

Jubilee College State Park
Peoria County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

Kankakee River Basin - Special Management Zone (Wilmington Dam to the Mouth of the Kankakee River, including tributaries)

Will/Grundy Counties
Large or Smallmouth Bass
Large or Smallmouth
Bass (14)
- 12" - 16" Protected Slot Length Limit (no possession) (37)
- 1 Fish over 16" and 2 Fish under 12" Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Kankakee River Basin - Special Management Zone (Kankakee Dam to the Wilmington Dam, including tributaries)
Kankakee/Will Counties
Large or Smallmouth Bass
Large or Smallmouth Bass

- 14" Minimum Length Limit
- Catch and Release Only Season in tributaries - No Harvest May 1 through June 15 (9)

Kankakee River State Park (19)

Kankakee/Will Counties

Kaskaskia River Fish and Wildlife Area (19)

St. Clair/Randolph/Monroe Counties

Kaskaskia River Fish and Wildlife Area - Doza Creek Wildlife Management Area (33)
St. Clair County

Kendall Co. Lake #1, Kendall County Forest Preserve District

Kendall County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 3 Fish Daily Creel Limit

Kent Creek

Winnebago County
Trout
- Spring Closed Season (11)

Kickapoo State Park Lakes & Ponds, Kickapoo State Park

Vermillion County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large of Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 3 Fish Daily Creel Limit

Kincaid City Reservoir, City of Kincaid

Christian County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit

Kincaid Lake, Kincaid Lake State Fish and Wildlife Area (19)

Jackson County
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 16" Minimum Length Limit
- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Pure Muskellunge
White, Black, or Hybrid
Crappie
White, Black, or Hybrid
Crappie (15)
- 48" Minimum Length Limit (40)
- 9" Minimum Length Limit
- 25 Fish Daily Creel Limit

Kinmundy Reservoir, City of Kinmundy

- Marion County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)(5)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

Lake Atwood, McHenry County Conservation District

- McHenry County
All Fish
Channel Catfish
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Spring Closed Season (11)

Lake Bloomington, City of Bloomington

- McLean County
All Fish
Bluegill or Redear Sunfish
Bluegill or Redear Sunfish (14)
Large or Smallmouth Bass
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
White, Black, or Hybrid
Crappie (15)
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit

Lake Carlton, Morrison-Rockwood State Park

- Whiteside County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Pure Muskellunge
White, Black, or Hybrid
Crappie (15)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 36" Minimum Length Limit
- 25 Fish Daily Creel Limit

Lake Chautauqua North Pool, U.S. Fish and Wildlife Service

- Mason County
Largemouth Bass
- 15" Minimum Length Limit (12)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Minimum Length Limit when
the Illinois River overflows the
levee system of the North Pool)

Lake Co. Forest Preserve District Lakes, Lake County Forest Preserve District Lake County

- All Fish
Channel Catfish
Large Smallmouth Bass (14)
Large or Smallmouth Bass
Walleye, Sauger, or Hybrid Walleye
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 16" Minimum Length Limit

Lake Decatur, City of Decatur

- Macon County
All Fish
White, Black, or Hybrid
Crappie
White, Black, or Hybrid
Crappie
- 2 Pole and Line Fishing Only (1)
- 10" Minimum Length Limit
- 10 Fish Daily Creel Limit

Lake Depue Fish and Wildlife Area (33)

Bureau County

Lake Eureka, City of Eureka

- Woodford County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

Lake George, Loud Thunder Forest Preserve

Rock Island County

- All Fish
Channel Catfish
Large or Smallmouth Bass
Pure Muskellunge
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
White, Black, or Hybrid
Crappie (15)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 36" Minimum Length Limit
- 17" Minimum Length Limit
- 1 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit

Lake Jacksonville, City of Jacksonville

Morgan County

- All Fish
Bluegill or Redear Sunfish
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Bluegill or Redear Sunfish
Channel Catfish
Large or Smallmouth Bass
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
White, Black, or Hybrid
Crappie
White, Black, or Hybrid
Crappie
- Lake Kakusha, City of Mendota
LaSalle County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
White, Black, or Hybrid
Crappie (15)
- Lake Le-Aqua-Na, Lake Le-Aqua-Na State Park
Stephenson County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
White, Black, or Hybrid
Crappie (15)
- Lake Mendota, City of Mendota
LaSalle County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
- Lake Michigan (Illinois Portion), State of Illinois
Lake/Cook Counties
Trout and Salmon
Trout and Salmon
- Lake Trout
Yellow Perch
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit
- 9" Minimum Length Limit
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 to 40 Fish Daily Creel Limit
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 12" Daily (31)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish >or=15" &/or 2 < 12" Daily (31)
- 10" Minimum Length Limit
- no more than 5 fish of any one species daily, except for Lake Trout
- 2 Fish Daily Creel Limit
- 15 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Yellow Perch
- 8"-to-10"-Harvest-Not-Length Limit-(2)---Possession-of-yellow Perch-Under-8"-or-over-10"-is prohibited; Taking of yellow perch from charter boats is prohibited
- Closed During July June
- Catch and Release Fishing Only (no possession) (9)
- Yellow Perch
Large or Smallmouth Bass (14)
- Lake Milliken, Des Plaines Conservation Area
Will County
All Fish
Channel Catfish
Large or Smallmouth Bass
Trout
Lake Mingo & Kennekuk Cove Park Ponds, Vermilion County Conservation Area
Vermilion County
All Fish
Channel Catfish
Large or Smallmouth Bass
Lake Murphysboro, Lake Murphysboro State Park
Jackson County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
Lake Nellie, City of St. Elmo
Rayette County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Lake of the Woods & Elk's Pond, Champaign County Forest Preserve District
Champaign County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Spring Closed Season (11)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 15" Minimum Length Limit
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 3 Fish Daily Creel Limit
- 2 Pole and Line Fishing Only (1)(5)
- 6 Fish Daily Creel Limit
- 3 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Trout
- Spring Closed Season (11)
- ~~Lake-Ogish, Rock-Cut-State-Park~~
Winnebago County
All-Fish
Channel-Catfish
Large-or-Smallmouth-Bass
~~Large-or-Smallmouth-Bass-(14)~~
- Lake Owen, Hazel Crest Park District,
Cook County
All Fish
Channel Catfish
- Lake Paradise, City of Mattoon
Coles County
All Fish
Large or Smallmouth Bass
- Lake Paradise Shadow Ponds, City of Mattoon
Coles County
All Fish
Large or Smallmouth Bass
Channel Catfish
- Lake Sara, City of Effingham
Effingham County
Large or Smallmouth Bass
White, Black, or Hybrid
Crappie (15)
- Lake Shelbyville (21), U.S. Army Corps of Engineers
Moultrie/Shelby Counties
(During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad Bridge from one-half hour before sunrise to 1 p.m.)
Large or Smallmouth Bass
Pure Muskellunge
White, Black, or Hybrid
Crappie (15)
White, Black, or Hybrid
Crappie
- Lake Shelbyville - Project Ponds & Woods Lake, Lake Shelbyville State Fish and Wildlife Area (33)
Moultrie/Shelby Counties
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Large or Smallmouth Bass
White, Black, or Hybrid
Crappie
White, Black, or Hybrid
Crappie (15)
- Lake Mississippi (19)
Whiteside County
- Lake Springfield, City of Springfield
Sangamon County
All Fish
Large or Smallmouth Bass
White, Black, or Hybrid
Crappie (15)
White, Black, or Hybrid
Crappie
- Lake Storey, City of Galesburg
Knox County
All Fish
Bluegill or Redear Sunfish (14)
Channel or Blue Catfish (14)
Large or Smallmouth Bass
Pure Muskellunge
Walleye, Sauger, or Hybrid
Walleye (14)
- Lake Strini, Village of Romeoville
Will County
All Fish
Channel Catfish
- Lake Sule, Flag-Rochelle Park District
Ogle County
All Fish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Pure Muskellunge
White, Black or Hybrid
Crappie (15)
- Lake Taylorville, City of Taylorville
Christian County
Large or Smallmouth Bass
- 14" Minimum Length Limit
 - 10" Minimum Length Limit
 - 10 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 5 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 1 Fish Daily Creel Limit
 - 36" Minimum Length Limit
 - 10 Fish Daily Creel Limit
 - 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- White, Black, or Hybrid Crappie
 White, Black, or Hybrid Crappie (15)
 Lake Vandalia, City of Vandalia
 Fayette County
 All Fish
 Large or Smallmouth Bass
 Striped, White, or Hybrid Striped Bass
 Striped, White, or Hybrid Striped Bass (16)
 Lake Vermillion, Vermillion County Conservation District
 Vermillion County
 All Fish
 Large or Smallmouth Bass
 Pure Muskellunge
 White, Black, or Hybrid Crappie
 White, Black, or Hybrid Crappie (15)
 Lake Victoria, City of South Beloit
 Winnebago County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
 Large or Smallmouth Bass (14)
 Lake Williamsville, City of Williamsville
 Sangamon County
 All Fish
 Channel Catfish
 LaSalle Lake, LaSalle Power Station
 LaSalle County
 All Fish
 Large or Smallmouth Bass (14)
 Large or Smallmouth Bass
 Striped, White, or Hybrid Striped Bass (16)
 Leavings Lake, Rockford Park District
- 9" Minimum Length Limit
 - 25 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 17" Minimum Length Limit
 - 3 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (26)
 - 15" Minimum Length Limit (23)
 - 48" Minimum Length Limit (40)
 - 9" Minimum Length Limit
 - 25 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 1 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 1 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 10 Creel/3 Fish 17" or Longer Daily (17)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Winnebago County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
 Large or Smallmouth Bass (14)
 Lincoln Log Cabin Pond, Lincoln Log Cabin Historical Site
 Coles County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
 Large or Smallmouth Bass (14)
 Lincoln Park North Lagoon, Chicago Park District
 Cook County
 All Fish
 Channel Catfish
 Lincoln Park South Lagoon, Chicago Park District
 Cook County
 All Fish
 Channel Catfish
 Lincoln Trail Lake, Lincoln Trail State Park
 Clark County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
 Little Black Slough, Little Black Slough State Natural Area
 Johnson County
 All Fish
 All Fish
 Little Sister Lake, County of Fulton
 Fulton County
 All Fish
 Bluegill or Redear Sunfish (14)
 Channel Catfish
 Large or Smallmouth Bass
 Large or Smallmouth Bass (14)
 - 2 Pole and Line Fishing Only (1)
 - 25 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 12-15" Slot Length Limit (3)
 - 2 Pole and Line Fishing Only (1)
 - No Seines
 - 2 Pole and Line Fishing Only (1)
 - 2 Pole and Line Fishing Only (1)
 - 25 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 12-15" Slot Length Limit (3)
 - 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Little Vermilion River Basin - Special Management Zone (river mainstem and tributaries)
LaSalle County

- Large or Smallmouth Bass
- Catch and Release Only Season
No Harvest May 1 through
June 15 (9)

Lou Yeager Lake, City of Litchfield

- Montgomery County
- Large or Smallmouth Bass
 - Large or Smallmouth Bass (14)
 - 15" minimum Length Limit
 - 3 Fish Daily Creel Limit

Loami Reservoir, City of Loami

- Sangamon County
- All Fish
 - 2 Pole and Line Fishing Only (1)
 - Channel Catfish
 - Large or Smallmouth Bass
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit

Lower Cache River, Lower Cache River State Natural Area

- Pulaski/Johnson Counties
- All Fish
 - All Fish
 - 2 Pole and Line Fishing Only (1)
 - No Seines

Lyerla Lake, Union County Conservation Area

- Union County
- All Fish
 - Channel Catfish
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Mackinaw Ponds 1, 2, and 3, Mackinaw State Fish and Wildlife Area

- Tazewell County
- Large or Smallmouth Bass
 - Large or Smallmouth Bass (14)
 - 15" Minimum Length Limit
 - 1 Fish Daily Creel Limit

Macon County Conservation District
Ponds, Macon County Conservation District

- Macon County
- All Fish
 - Channel Catfish
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Maple Lake, Cook County Forest Preserve District

- Cook County
- All Fish
 - 2 Pole and Line Fishing Only (1)(36)
 - Channel Catfish
 - Large or Smallmouth Bass
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit

Marissa City Lake, City of Marissa

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

St. Clair County

- Channel Catfish
- 6 Fish Daily Creel Limit

Marquette Park Lagoon, Chicago Park District

- Cook County
- All Fish
 - Channel Catfish
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

Marshall County Conservation Area (Fishing Ditch), Marshall County Conservation Area (33)

- Marshall County
- All Fish
 - 2 Pole and Line Fishing Only (1)

Marshall County Conservation Area - Sparland Unit (19)

Marshall County

Mascoutah Reservoir, City of Mascoutah

- St. Clair County
- All Fish
 - Large or Smallmouth Bass
 - Large or Smallmouth Bass (14)
 - 2 Pole and Line Fishing Only (1)
 - 15" Minimum Length Limit
 - 3 Fish Daily Creel Limit

Massac County Fairgrounds Pond, State of Illinois

- Massac County
- Trout
 - Trout
 - Fall Closed Season (10)
 - Spring Closed Season (11)

Matthiessen Lake, Matthiessen State Park

- LaSalle County
- All Fish
 - Bluegill or Redear
 - Sunfish (14)
 - Channel Catfish
 - Large or Smallmouth Bass
 - 2 Pole and Line Fishing Only (1)
 - 10 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit

Mattoon Lake, City of Mattoon

- Coles County
- All Fish
 - Large or Smallmouth Bass
 - 2 Pole and Line Fishing Only (1)
 - 14" Minimum Length Limit

Mautino Fish and Wildlife Area, Mautino Fish and Wildlife Area

- Bureau County
- All Fish
 - 2 Pole and Line Fishing Only (1) (34)
 - Bluegill or Redear Sunfish (14)
 - Channel Catfish
 - Large or Smallmouth Bass
 - Large or Smallmouth Bass (14)
 - 10 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Mauvaise Terre/Morgan Lake, City of Jacksonville

Morgan County
Large or Smallmouth Bass - 15" Minimum Length Limit

Mazonia Lakes & Ponds, Mazonia State Fish and Wildlife Area (33)

Grundy/Kankakee Counties

- All Fish
 - Channel Catfish - 2 Pole and Line Fishing Only (1)
 - Large or Smallmouth Bass - 6 Fish Daily Creel Limit
 - White, Black or Hybrid - 15" Minimum Length Limit
 - Crappie (15) - 3 Fish Daily Creel Limit
 - 10 Fish Daily Creel Limit

McCullom Lake, City of McHenry

McHenry County

- All Fish
 - Bluegill or Redear - 2 Pole and Line Fishing Only (1)
 - Sunfish (14) - 25 Fish Daily Creel Limit
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 15" Minimum Length Limit
 - Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

McKinley Park Lagoon, Chicago Park District

Cook County

- All Fish
 - Channel Catfish - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

McLeansboro City Lakes, City of McLeansboro

Hamilton County

- All Fish
 - Channel Catfish - 2 Pole and Line Fishing Only (1)
 - Large or Smallmouth Bass - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit

McMaster Lake and Small Ponds Lakes, Snakeden Hollow McMaster State Fish and

Wildlife Area

Knox County

(All use other than waterfowl hunting prohibited from October 1 through the end of the Canada goose season)

- All Fish
 - Bluegill or Redear - 2 Pole and Line Fishing Only (1)
 - Sunfish (14) - 10 Fish Daily Creel Limit
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 15" Minimum Length Limit
 - Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
 - Pure Muskellunge - 4236" Minimum Length Limit
 - Walleye, Sauger, or Hybrid

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Walleye (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid
- Crappie (15) - 5 Fish Daily Creel Limit

Meredosia Lake - Cass County Portion Only (meandered waters only) (33)
Cass County

Meredosia Lake - Cass County Portion

Cass County

(Meandered waters only) (All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes; hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes)

Mermet State Lake, Mermet Lake Conservation Area (33)

Massac County

- All Fish
 - Bluegill or Redear - 2 Pole and Line Fishing Only (1)
 - Sunfish (5)
 - Bluegill or Redear - 8" Minimum Length Limit
 - Sunfish (14) - 10 Fish Daily Creel Limit
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
 - White, Black, or Hybrid - 25 Fish Daily Creel Limit
 - Crappie (15)

Middle Fork Forest Preserve Ponds, Champaign County Forest Preserve

Champaign County

- All Fish
 - Bluegill or Redear Sunfish (14) - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 25 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit

Middle Fork of the Vermilion River, Kickapoo State Park and Middle Fork Fish and Wildlife Area

Vermilion County

- All Fish
 - 2 Pole and Line Fishing Only (1)

Middle Fork of the Vermilion River Basin - Special Management Zone (river mainstem and tributaries)

Vermilion/Champaign/Ford Counties

- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass - Catch and Release Only Season in tributaries - No Harvest May 1 through June 15 (9)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Mill Creek Lake, Clark County Park District

Clark County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
Pure Muskellunge
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 12-15" Slot Length Limit (3)
 - 42" Minimum Length Limit

Mill Pond, Pearl City Park District

Stephenson County
 All Fish
 Large or Smallmouth Bass
 Large or Smallmouth Bass (14)
 - 2 Pole and Line Fishing Only (1)
 - 14" Minimum Length Limit
 - 1 Fish Daily Creel Limit

Mill Race Ponds, Belvidere Park District

Boone County
 Trout
 - Spring Closed Season (11)

Miller Park Lake, City of Bloomington

McLean County
 All Fish
 Channel Catfish
 Trout
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - Spring Closed Season(11)

Mineral Springs Park Lagoon, City of Pekin

Tazewell County
 All Fish
 Channel Catfish
 Trout
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - Fall Closed Season (10)

Mississippi River Pools 16, 17, 18, 21, 22, 24, 25, 26 (19)

Multiple Counties

Mississippi River (between IL & IA), State of Illinois

Multiple Counties
 Large or Smallmouth Bass
 Northern Pike
 Walleye and Sauger (14)
 Walleye
 - 14" Minimum Length Limit
 - 5 Fish Daily Creel Limit
 - 10 Fish Daily Creel Limit (24)
 - 15" Minimum Length Limit

Mississippi River (between IL & MO), State of Illinois

Multiple Counties
 (Boating prohibited on refuge area (Ellis Bay) immediately upstream of Melvin Price Lock and Dam 26 overflow dike from October 15-April 15)
 (Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed)

All Nongame Species Combined

(Excludes endangered)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

and threatened species
 and the following game
 species: Crappie,
 Channel/Blue/Flathead
 Catfish, Rock Bass,
 Warmouth, White/Yellow/
 Striped/Hybrid Striped
 Bass, Trout, Large-
 mouth/Smallmouth/
 Spotted Bass,
 Muskellunge, Northern
 Pike, Chain/Grass
 Pickerel, Walleye,
 Sauger, Paddlefish,
 Channel or Blue Catfish (14)
 Flathead Catfish
 Largemouth, Smallmouth,
 or Spotted Bass
 Northern pike
 Striped, White, or Hybrid
 Striped Bass (16)

- 100 Total Fish Daily Creel Limit
 - 20 Fish Daily Creel Limit
 - 10 Fish Daily Creel Limit
 - 12" Minimum Length Limit
 - 1 Fish Daily Creel Limit
 - 30 Fish Daily Creel Limit -
 statewide regulation limiting
 daily creel to 3 fish 17"
 or longer is not in effect on
 the Mississippi River between
 Illinois and Missouri
 - 8 Fish Daily Creel Limit
 - 30 Fish Daily Creel Limit
 Walleye and Sauger (14)
 White, Black, or Hybrid
 Crappie (15)
 Monee Reservoir, Will County Forest Preserve District
 Will County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass (14)
 Large or Smallmouth Bass
 Montrose Lake, City of Montrose
 Cumberland County
 All Fish
 Channel Catfish
 Large or Smallmouth Bass
 Mt. Olive City Lakes, City of Mt. Olive
 Macoupin County
 All Fish
 Channel Catfish
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Mt. Olive (Old) Lake, City of Mt. Olive
Macoupin County
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Mt. Pulaski Park District Lake, Mt. Pulaski Park District
Logan County
All Fish - 2 Pole and Line Fishing Only (1)
- Mt. Sterling Lake, City of Mt. Sterling
Brown County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-15" Slot Length Limit (3)
- Mt. Vernon City Park Lake, City of Mt. Vernon
Jefferson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Mt. Vernon Game Farm Pond, Mt. Vernon Game Farm
Jefferson County
All Fish - 2 Pole and Line Fishing Only (1)
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)
- Mundelein Park District Ponds, City of Mundelein
Lake County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Nashville City Lake, City of Nashville
Washington County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
- Newton Lake, Newton Lake State Fish and Wildlife Area (41)
Jasper County
(The cold water arm of Newton Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- All Fish - 2 Pole and Line Fishing Only (1)
(5)
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid
Crappie (15) - 10 Fish Daily Creel Limit
White, Black, or Hybrid
Crappie - 10" Minimum Length Limit
- Norris City Reservoir, City of Norris City
White County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
- North Marcum Campground Pond, U.S. Army Corps of Engineers
Franklin County
Recreational Use Restrictions - Fishing permitted only by persons under 16 years of age
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Oakford Conservation Area (Menard County) (19)
Menard County
- Oakland City Lake, City Lake, City of Oakland
Coles County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
- Oblong Lake, City of Oblong
Crawford County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Ohio River (between Illinois & Kentucky), State of Illinois
Multiple Counties (19)
Large or Smallmouth Bass - 12" Minimum Length Limit
Northern Pike - No Length or Creel Limit
Muskie or Tiger Muskie - 2 Fish Daily Creel Limit
Muskie or Tiger Muskie - 30" Minimum Length Limit
Walleye, Sauger, or Hybrid
Walleye (14) - 10 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- White, Black, or Hybrid Crappie (15)
Striped, White, Yellow or Hybrid Striped Bass
- 30 Fish Daily Creel Limit
- 30 Creel/4 Fish 15" or Longer Daily (32)
- Ohio River-Smithland Pool Tributary Streams (in Pope/Hardin/Gallatin Counties, excluding Wabash River and Saline River Above Route 1 Bridge) (19)
Multiple Counties
Large and Smallmouth Bass
- 12" Minimum Length Limit
- Olson Lake, Rock Cut State Park
Winnebago County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Omaha City Reservoir, City of Omaha
Gallatin County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Otter Lake, Otter Lake Water Commission
Macoupin County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Striped, White, or Hybrid Striped Bass (16)
Pure Muskellunge
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 10 Creel/3 Fish 17" or Longer Daily (17)
- 48" Minimum Length Limit (40)
- Palmyra-Modesto Water Commission Lake, Palmyra/Modesto Water Commission
Macoupin County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Pana Lake, City of Pana
Shelby and Christian Counties
All Fish
Bluegill or Redear
- 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Paris East & West Lakes, City of Paris
Edgar County
All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Peabody River King, Pit #3 Lakes and Ponds, River King State Conservation Area
St. Clair County
All Fish
Channel Catfish
Large or Smallmouth Bass (14)
White, Black, or Hybrid Crappie (15)
White, Black, or Hybrid Crappie
- 2 Pole and Line Fishing Only (1)
- 9" Minimum Length Limit
- Pekin Lake (19)
Tazewell County
Perry Farm Pond, Bourbonnais Park District
Kankakee County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Piasa (19)
Madison/Jersey Counties
Pierce Lake, Rock Cut State Park
Winnebago County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Pure Muskellunge
White, Black, or Hybrid Crappie (15)
- 2 Pole and Line Fishing Only (1)(7)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 48" Minimum Length Limit (40)
- 25 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pike County Conservation Area (19)

Pike County

Pickneyville Lake, City of Pickneyville

Perry County

Large or Smallmouth Bass

Large or Smallmouth Bass (14)

Pine Creek

Ogle County

- Spring Closed Season (11)

Pine Creek (within the boundaries of White Pines Forest State Park)

Ogle County

All Fish

Trout

- 2 Pole and Line Fishing Only (1)

- Spring Closed Season (11)

Pine Lake, Village of University Park

Will County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

Piscasaw Creek

McHenry County

Trout

Trout

- 9" Minimum Length Limit

- Spring Closed Season (11)

Pittsfield City Lake, City of Pittsfield

Pike County

All Fish

Large or Smallmouth Bass

Striped, White, or Hybrid

Striped Bass

Striped, White, or Hybrid

Striped Bass (16)

White, Black, or Hybrid

Crappie

- 2 Pole and Line

Fishing Only (1)(7)

- 14" Minimum Length Limit

- 17" Minimum Length Limit

- 3 Fish Daily Creel Limit

- 9" Minimum Length Limit

Pocahontas Park Pond, City of Pocahontas

Bond County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

Powerton Lake, Powerton Lake Fish and Wildlife Area (39)

Tazewell County

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

- 14" Minimum Length Limit

- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(Powerton Lake shall be closed to boat traffic except for legal waterfowl hunters from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during the regular Canada goose and duck season)

All Fish

Channel or Blue Catfish (14)

Large or Smallmouth Bass

Large or Smallmouth Bass (14)

Striped, White, or Hybrid

Striped Bass (16)

- 10 Creel/3 Fish 17" or Longer

Daily (17)

- 3 Fish Daily Creel Limit

Walleye, Sauger, or Hybrid

Walleye (14)

Walleye, Sauger, or Hybrid

Walleye

- 18" Minimum Length Limit

Prospect Pond, City of Moline

Rock Island County

Trout

- Fall Closed Season (10)

Pyramid State Park Lakes & Ponds, Pyramid State Park

Perry County

All Fish

Channel Catfish

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

Ramsey Lake, Ramsey Lake State Park

Fayette County

All Fish

Bluegill or Redear Sunfish (14)

Channel Catfish

Large or Smallmouth Bass

White, Black, or Hybrid

Crappie (15)

White, Black, or Hybrid

Crappie

- 2 Pole and Line Fishing Only (1)

- 25 Fish Daily Creel Limit

- 6 Fish Daily Creel Limit

- 14" Minimum Length Limit

- 10 Fish Daily Creel Limit

- 9" Minimum Length Limit

Ramsey Lake State Park Ponds, Ramsey Lake State Park

Fayette County

All Fish

Channel Catfish

Large or Smallmouth Bass

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

- 14" Minimum Length Limit

Randolph County Lake, Randolph County Conservation Area

Randolph County

All Fish

Channel Catfish

Large or Smallmouth Bass

Large or Smallmouth Bass (14)

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

- 14" Minimum Length Limit

- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Trout
- Red Hills Lake, Red Hills State Park
Lawrence County
All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
- Fall Closed Season (10)
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Red's Landing Wildlife Management Area (19)
Calhoun County
(Walk-in area closed to trespassing 7 days prior to duck season)
- Redwing Slough/Deer Lake (33)
Lake County
- Rend Lake, U.S. Army Corps of Engineers (22) (33)
Franklin and Jefferson Counties
Channel Catfish
- All jugs must be attended at all times while fishing (2)
- 14" Minimum Length Limit
- Large or Smallmouth Bass
Striped, White, Yellow, or Hybrid
Striped Bass (8)
- 20 to 40 Creel/3 Fish 17" or Longer Daily ~~447~~
- Rend Lake Project Ponds - Jackie Branch Pond, Ina N. Borrow Pit, Green Heron Pond, North Marcum Campground Pond, U.S. Army Corps of Engineers
Franklin and Jefferson Counties
(See kids only fishing regulations for North Marcum Campground Pond)
- 2 Pole and Line Fishing Only (1)
- All Fish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Rice Lake Fish and Wildlife Area (33)
Fulton County
- Ridge Lake, Fox Ridge State Park
Coles County
(Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (19))
- All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 14" Minimum Length Limit
- 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Riis Park Lagoon, Chicago Park District
Cook County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Riprap Landing (19)
Calhoun County
- Riverside Park Lagoon, Moline Park District
Rock Island County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Rock Creek, State of Illinois
Kankakee County
Trout
- Spring Closed Season (11)
- Rock River Basin - Special Management Zone (Fordam Dam to Oregon Dam, including tributaries)
Ogle/Winnebago Counties
Large or Smallmouth Bass
Large or Smallmouth
Bass (14)
- 12" - 16" Protected Slot Length Limit (no possession) (37)
- 1 Fish over 16" and 2 Fish under 12" Daily Creel Limit
- Rock River Basin - Special Management Zone (from Oregon Dam to State Route 2 Highway Bridge at Grand Detour, including all tributaries)
Ogle County
Large or Smallmouth Bass
- Catch and Release Fishing Only (9)
- Rock Springs Bike Trail Pond, Macon County Conservation District
Macon County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth
Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Rock Springs Pond, Macon County Conservation District
Macon County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth
Bass (14)
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Spring Closed Season (11)
- Roodhouse Park Lake, City of Roodhouse

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Green County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Route 154 Day Use Pond, State of Illinois
Randolph County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Bass (14) - 1 Fish Daily Creel Limit

Sahara Woods Fish and Wildlife Area (all waters open to the public), State of Illinois
Saline County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear - 15 Fish Daily Creel Limit
Sunfish (14) - 6 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
White, Black, or Hybrid - 15 Fish Daily Creel Limit
Crappie (15)

St. Elmo South Lake, City of St. Elmo
Fayette County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Salem Reservoir, City of Salem
Marion County
All Fish - 2 Pole and Line Fishing Only (1)(5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Sam Dale Lake, Sam Dale Conservation Area
Wayne County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Sam Dale Trout Pond, Sam Dale Conservation Area
Wayne County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Sam Parr Lake, Sam Parr State Park
Jasper County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Sand Lake, Illinois Beach State Park
Lake County
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Sandy Creek Basin - Special Management Zone (river mainstem and tributaries)
Marshall County
Large or Smallmouth Bass - Catch and Release Only Season - No Harvest May 1 through June 15 (9)

Sanganois Conservation Area (33)(42)
Mason/Cass/Schuyler/Menard Counties

Sangchris Lake, Sangchris Lake State Park
Christian/Sangamon Counties
(Posted waterfowl refuge closed to all boat traffic during waterfowl season. Bank fishing along the dam shall be permitted. Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season)
All Fish - 2 Pole and Line Fishing Only (1)(34)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid - 10 Fish Daily Creel Limit
Crappie (15) - 9" Minimum Length Limit
Crappie

Sangchris Lake Park Ponds, Sangchris Lake State Park
Sangamon County
All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Schiller Pond, Cook County Forest Preserve District
Cook County
All Fish
- 2 Pole and Line Fishing Only (1)
(36)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- Channel Catfish
Large or Smallmouth Bass
- Schuy-Rush Lake, City of Rushville
Schuyler County
All Fish
Channel Catfish
White, Black, or Hybrid
Crappie
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Senior Citizen's Pond, Kankakee River State Park
Kankakee County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Shabbona Lake, Shabbona Lake State Park
DeKalb County
All Fish
Bluegill or Redear Sunfish (14)
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Pure Muskellunge
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
Walleye, Sauger, or Hybrid
Walleye
White, Black, or Hybrid
Crappie (15)
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 18" Minimum Length Limit
- 10 Fish Daily Creel Limit
- Shawnee National Forest Lakes & Ponds less than 10 acres, U.S. Forest Service
Multiple Counties
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Bay Creek Lake #5 and #8 (Sugar Creek Lake), U.S.
Forest Service
Pope County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Largemouth, Smallmouth and
Spotted Bass
- 15" Minimum Length Limit
- Shawnee National Forest - Dutchman Lake, U.S. Forest Service
Johnson County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Lake Glendale, U.S. Forest Service
Pope County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Little Cache #1, U.S. Forest Service
Johnson County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Little Cedar Lake, U.S. Forest Service
Jackson County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - One Horse Gap Lake, U.S. Forest Service
Pope County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Pounds Hollow Lake, U.S. Forest Service
Gallatin County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Tecumseh Lake, U.S. Forest Service
Hardin County
All Fish
- 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Turkey Bayou, U.S. Forest Service
Jackson County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Shawnee National Forest - Whoopie Cat Lake, U.S. Forest Service
Hardin County
All Fish
Channel Catfish
Largemouth, Smallmouth or
Spotted Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Sherman Park Lagoon, Chicago Park District
Cook County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Siloam Springs Lake, Siloam Springs State Park
Adams County
All Fish
- 2 Pole and Line
Fishing Only (1) (7)
Channel Catfish
Largemouth or Smallmouth Bass
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)
Trout
- Fall Closed Season (10)
Trout
- Spring Closed Season (11)
- Silver Lake, DuPage County Forest Preserve District
DuPage County
All Fish
Channel Catfish
Largemouth or Smallmouth Bass
Largemouth or Smallmouth
Bass (14)
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 3 Fish Daily Creel Limit
- Spring Closed Season (11)
- Silver Springs S.P. (Big Lake) & Ponds, Silver Springs State Fish and
Wildlife Area
Kendall County
All Fish
Channel Catfish
Largemouth or Smallmouth Bass
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Fall Closed Season (10)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Trout
- Spring Closed Season (11)
- Skokie Lagoons, Cook County Forest Preserve District
Cook County
All Fish
Largemouth or Smallmouth Bass
Walleye
- 2 Pole and Line Fishing Only (1)
- 14" Minimum Length Limit
- 18" Minimum Length Limit
- Small Pit Pond, Boone County Conservation District
Boone County
All Fish
Channel Catfish
Largemouth or Smallmouth
Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Snakeden Hollow State Fish and Wildlife Area - McMaster Lake and Small Ponds,
State of Illinois
Know County (see McMaster Lake and Small Ponds)
- Sparta City Lakes, City of Sparta
Randolph County
All Fish
Channel Catfish
Largemouth or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- Sparta "T" Lake, City of Sparta
Randolph County
All Fish
Bluegill or Redear Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Largemouth or Smallmouth Bass
Largemouth or Smallmouth
Bass (14)
White, Black, or Hybrid
Crappie
White, Black, or Hybrid
Crappie (15)
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 15 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 9" Minimum Length Limit
- 10 Fish Daily Creel Limit
- Spencer Lake, Boone County Conservation District
Boone County
All Fish
Channel Catfish
Largemouth or Smallmouth
Bass
Largemouth or Smallmouth
Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Bass (14)
- Spring Lake, City of Macomb
McDonough County
All Fish
- 1 Fish Daily Creel Limit
 - 2 Pole and Line Fishing Only (1) (5)
 - 6 Fish Daily Creel Limit
 - 15" Minimum Length Limit
 - 3 Fish Daily Creel Limit
 - 17" Minimum Length Limit
 - 3 Fish Daily Creel Limit
- Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
- Spring Lakes (North & South), Spring Lake Conservation Area (33)
Tazewell County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1) (7)
 - 6 Fish Daily Creel Limit
 - 12-15" Slot Length Limit (3)
 - 3 Fish Daily Creel Limit
 - 48" Minimum Length Limit (40)
 - 25 Fish Daily Creel Limit
 - 9" Minimum Length Limit
- Large or Smallmouth Bass
Large or Smallmouth Bass (14)
Pure Muskellunge
White, Black, or Hybrid
Crappie (15)
White, Black, or Hybrid
Crappie
- Spring Pond, Flagg-Rochelle Park District
Ogle County
All Fish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- Starved Rock State Park (19)
LaSalle County
- Staunton City Lake, City of Staunton
Macoupin County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- Stephen A. Forbes State Park (19)
Marion County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Sterling Lake, Lake County Forest Preserve District
Lake County
All Fish
- 2 Pole & Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 1 Fish Daily Creel Limit
 - 15" Minimum Length Limit
 - 48 3/16" Minimum Length Limit
- Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass
Pure Muskellunge
- Storm Lake, DeKalb Park District
DeKalb County
All Fish
- 2 Pole and Line Fishing (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 1 Fish Daily Creel Limit
- Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- Stump Lake Wildlife Management Area (33)
Jersey County
- Tampier Lake, Cook County Forest Preserve District
Cook County
All Fish
- 2 Pole and Line Fishing Only (36)
 - 8" Minimum Length Limit
 - 10 Fish Daily Creel Limit
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
 - 18" Minimum Length Limit
- Bluegill or Redear
Sunfish
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Walleye, Sauger, or Hybrid
Walleye
- Taylorville Park District Pond, Taylorville Park District
Christian County
All Fish
- 2 Pole and Line Fishing Only (1)
- Ten Mile Creek Lakes, Ten Mile Creek State Fish and Wildlife Area
Hamilton/Jefferson Counties (19)
(Areas designated as refuge are closed to all access during the Canada goose season)
- All Fish
- 2 Pole and Line Fishing Only (1)
 - 6 Fish Daily Creel Limit
 - 14" Minimum Length Limit
- Channel Catfish
Large or Smallmouth Bass
- Tilton City Lake, City of Tilton
- Toledo Reservoir, City of Toledo
Cumberland County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

All Fish
Channel Catfish

Turkey Bluff Ponds, State of Illinois Randolph County
All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)

Turner Lake, Chain O'Lakes State Park
Lake County

All Fish
Channel Catfish
Large or Smallmouth Bass (14)
Large or Smallmouth Bass

Tuscola City Lake, City of Tuscola
Douglas County

All Fish
Channel Catfish
Large or Smallmouth Bass

Union County Conservation Area
Union County

(All fishing and boat traffic prohibited October 15-March 1)

Valley Lake, Wildwood Park District
Lake County

All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)

Valmeyer Lake, City of Valmeyer
Monroe County

All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)

Vanhorn Woods Pond, Plainfield Park District
Will County

All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 1 Fish Daily Creel Limit
- 15" Minimum Length Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(14)
- 1 Fish Daily Creel Limit

Vermilion County

Large or Smallmouth Bass
Large or Smallmouth Bass (14)

Vernor Lake, City of Olney
Richland County

All Fish
Channel Catfish
Large or Smallmouth Bass

Villa Grove East Lake, City of Villa Grove
Douglas County

All Fish
Channel Catfish
Large or Smallmouth Bass

Villa Grove West Lake, City of Villa Grove
Douglas County

All Fish
Channel Catfish
Large or Smallmouth Bass
Trout

Virginia City Reservoir, City of Virginia
Cass County

All Fish
Channel Catfish
Large or Smallmouth Bass

Waddams Creek

Stephenson County

Trout

Walnut Point Lake, Walnut Point State Fish and Wildlife Area

Douglas County

All Fish

Bluegill or Redear

Sunfish

Bluegill or Redear

Sunfish (14)

Channel Catfish

Large or Smallmouth Bass

Walton Park Lake, City of Litchfield

Montgomery County

- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 12-15" Slot Length Limit (3)

- Spring Closed Season (11)

- 2 Pole and Line Fishing Only (1)

- 8" Minimum Length Limit

- 10 Fish Daily Creel Limit

- 6 Fish Daily Creel Limit

- 12-15" Slot Length Limit (3)

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

- 15" Minimum Length Limit

- 2 Pole and Line Fishing Only (1)

- 6 Fish Daily Creel Limit

- 14" Minimum Length Limit

- Fall Closed Season (10)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- All Fish
Bluegill or Redear
Sunfish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 8" Minimum Length Limit
- 10 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit

Wampum Lake, Cook County Forest Preserve District
Cook County

- All Fish
Bluegill or Redear
Sunfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)(36)
- Catch and Release Only (9)
- 14" Minimum Length Limit

Washington County Lake, Washington County Conservation Area
Washington County

- All Fish
Channel Catfish
Large or Smallmouth Bass
Striped, White, or Hybrid
Striped Bass
Striped, White, or Hybrid
Striped Bass (16)
- 2 Pole and Line Fishing Only (1)
(5)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit
- 17" Minimum Length Limit
- 3 Fish Daily Creel Limit

Washington Park Lagoon, Chicago Park District
Cook County

- All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Washington Park Pond, Springfield Park District
Sangamon County

- All Fish
Channel Catfish
Trout
Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- Fall Closed Season (10)
- Spring Closed Season (11)

Waverly Lake, City of Waverly
Morgan County

- All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit

Weinberg-King Pond, Weinberg-King State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Schuyler County
All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

Weldon Springs Lake, Weldon Springs State Park
Dewitt County

- All Fish
Channel Catfish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

West Frankfort New City Lake, City of West Frankfort
Franklin County

- All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

West Frankfort Old City Lake, City of West Frankfort
Franklin County

- All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

West Salem Reservoir, City of West Salem
Edwards County

- All Fish
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

White Hall City Lake, City of White Hall
Greene County

- All Fish
Channel Catfish
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit

White Oaks Lake, City of Bloomington
McLean County

- All Fish
Large or Smallmouth Bass
Large or Smallmouth Bass (14)
- 2 Pole and Line Fishing Only (1)
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

Wilderness Pond, Fox Ridge State Park
Coles County

- (Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (19))
All Fish
Bluegill or Redear
Sunfish (14)
Channel Catfish
Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 5 Fish Daily Creel Limit
- 6 Fish Daily Creel Limit
- 18" Minimum Length Limit

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Large or Smallmouth
Bass (14)

- 1 Fish Daily Creel Limit

William W. Powers Conservation Area (33)
Cook County

Willow Lake, Peabody River King State Conservation Area

St. Clair County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth Bass (14)
- White, Black, or Hybrid
- Crappie
- White, Black, or Hybrid
- Crappie
- Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 3 Fish Daily Creel Limit
- 25 Fish Daily Creel Limit
- 9" Minimum Length Limit
- Fall Closed Season (10)

Wolf Lake, William W. Powers Conservation Area (33)

Cook County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 14" Minimum Length Limit

Woodford Co. Cons. Area (Fishing Ditch), Woodford County (33)
Conservation Area

Woodford County

- All Fish
- 2 Pole and Line Fishing Only (1)

Woodlawn Pond, Frankfort Square Park District

Will County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth
Bass (14)
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit

Wyman Lake, City of Sullivan

Moultrie County

- All Fish
- Channel Catfish
- Large or Smallmouth Bass
- Large or Smallmouth
Bass (14)
- Trout
- 2 Pole and Line Fishing Only (1)
- 6 Fish Daily Creel Limit
- 15" Minimum Length Limit
- 1 Fish Daily Creel Limit
- Spring Closed Season (11)

Yellow Creek

Stephenson County

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Trout

- Spring Closed Season (11)

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 810.70 Free Fishing Days

During the period of June 8, 9, 10, 11, 2001, 9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31, it shall be legal for any person to fish in waters wholly or in part within the jurisdiction of the State, including the Illinois portion of Lake Michigan, without possessing a sport fishing license, salmon stamp or inland trout stamp.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Proposed Action:
130.350 Amendment

4) Statutory Authority: 35 ILCS 120

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the regulation pertaining to Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment by providing that equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment. Also provides that roof bolt supports and side rib bolt supports that prevent mine collapse are equipment exempt from tax.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
130.330	Amendment	05/26/00, 24 Ill. Reg. 7617
130.605	Amendment	09/08/00, 24 Ill. Reg. 13617
130.325	Amendment	09/29/00, 24 Ill. Reg. 14393
130.901	Amendment	11/13/00, 24 Ill. Reg. 16573
130.101	Amendment	11/17/00, 24 Ill. Reg. 16986
130.540	Amendment	11/17/00, 24 Ill. Reg. 16986

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

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(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers and purchasers of equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant

B) Reporting, bookkeeping or other procedures required for compliance: Minimal

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section

130.701

General Information on Obtaining a Certificate of Registration Procedure in Disputed Cases Involving Financial Responsibility

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130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section

130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances

130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section

130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section

130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility

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Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances Display
130.725
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records
130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number---When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501 Claims for Credit---Limitations---Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

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Section	
130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiroprodists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art

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130.2050	Shows, Flea Markets and the Like
130.2055	Sales and Gifts By Employers to Employees
130.2060	Sales by Governmental Bodies
130.2065	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2070	Sales of Automobiles for Use in Demonstration (Repealed)
130.2075	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2080	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2085	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2090	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2095	Sales to Railroad Companies
130.2100	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2105	Sellers of Feeds and Breeding Livestock
130.2110	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
130.2115	Sellers of Seeds and Fertilizer
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130.2125	Suppliers of Persons Engaged in Service Occupations and Professions
130.2130	Trading Stamps and Discount Coupons
130.2135	Undertakers and Funeral Directors
130.2140	Vending Machines
130.2145	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
130.2150	Vendors of Meals
130.2155	Vendors of Memorial Stones and Monuments
130.2156	Vendors of Signs
130.2160	Vendors of Steam
130.2165	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2170	Veterinarians
130.2175	Warehousemen

ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980;

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amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9998, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 25 Ill. Reg. _____, effective _____.

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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. Prior to June 24, 1996, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more. The exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs \$250 or more. Equipment and parts sold by the linear foot or similar measurement qualify for the exemption if the cost of the total length sold in an individual transaction or sale exceeds \$250. The exemption also applies to equipment and replacement parts costing \$250 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. On and after June 24, 1996, the exemption is not conditioned upon the \$250 purchase threshold requirement.

- 1) This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.
- 2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, excavating and drilling to locate coal deposits.
- 3) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.
- 4) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles.
- 5) "Processing" means preparation activities performed directly on

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the coal which are necessary for converting coal into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

6) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

7) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

8) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment. Prior to June 24, 1996, there is a requirement that such replacement parts cost \$250 or more. On and after June 24, 1996, there is no such limitation.

9) "Kits" means commercially-packaged, sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the \$250 per item limitation. The \$250 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250 or more. On and after June 24, 1996, there is no such limitation. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities

By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) Coal is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to drill holes for blasting material to dislodge the overburden and to transport the blasting material.

B) Equipment used to remove overburden and other waste

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materials from the pit to be mined.

C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

D) Pumps and hose used to remove water or to divert water from the active pit area.

E) Equipment used to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

F) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.

G) Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.

H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.

I) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).

J) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

2) Coal is produced in an underground mining operation that begins with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.

B) Shuttle cars used to transport the coal from the continuous miner to the feeder-breaker at the end of a conveyor belt or other transportation system.

C) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is stockpiled or transported to the processing facility.

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- D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
- E) Pumps and hose used to remove water from the underground mine.
- F) Equipment used to install roof bolt supports and side rib bolt supports to prevent mine collapse.
- G) Equipment used to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.
- H) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems.
- I) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures.
- J) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining will be considered as exempt, as long as, prior to June 24, 1996, the addition is valued at \$250 or more. On and after June 24, 1996, there is no such limitation.
- K) Longwall equipment consisting of shields, shears, face conveyors and related equipment.
- L) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
- M) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).
- N) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- O) Roof bolt supports and side rib bolt supports to prevent mine collapse.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.
- B) Lathes, drill presses, air compressors and welders used to work repair parts.
- C) Mobile and overhead cranes.
- 4) By way of illustration and not limitation, the following coal

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- exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used to drill exploration core holes.
- B) Water trucks used in the drilling process.
- C) Winch and casing trucks used in the drilling process.
- D) Field maintenance trucks used to make repairs on field equipment.
- E) Air compressors.
- c) Nonexempt Activities
- By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:
- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;
- 2) the use of equipment in research and development for new uses of coal;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;
- 6) facilities for storing coal after extraction and processing;
- 7) Front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers.
- d) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption.
- A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed

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certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.

e) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Livestock Management Facility Regulations

- 2) Code Citation: 8 Ill. Adm. Code 900

- 3) Section Numbers: Adopted Action:

900.101	New
900.102	New
900.103	New
900.104	New
900.105	New
900.201	New
900.202	New
900.203	New
900.301	New
900.302	New
900.303	New
900.304	New
900.305	New
900.401	New
900.402	New
900.403	New
900.404	New
900.405	New
900.406	New
900.407	New
900.408	New
900.409	New
900.501	New
900.502	New
900.503	New
900.504	New
900.505	New
900.506	New
900.507	New
900.508	New
900.509	New
900.510	New
900.511	New
900.601	New
900.602	New
900.603	New
900.604	New
900.605	New
900.606	New
900.607	New
900.608	New
900.609	New
900.610	New

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- 900.611 New
- 900.701 New
- 900.702 New
- 900.703 New
- 900.704 New
- 900.705 New
- 900.706 New
- 900.707 New
- 900.708 New
- 900.709 New
- 900.710 New
- 900.711 New
- 900.712 New
- 900.713 New
- 900.714 New
- 900.720 New
- 900.801 New
- 900.802 New
- 900.803 New
- 900.804 New
- 900.805 New
- 900.806 New
- 900.807 New
- 900.808 New
- 900.809 New
- 900.810 New
- 900.811 New
- 900.812 New
- 900.813 New
- 900.814 New
- 900.815 New
- 900.816 New
- 900.901 New
- 900.APPENDIX A New
- 900.ILLUSTRATION A New
- 900.ILLUSTRATION B New

- 4) Statutory Authority: Authorized by Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [510 ILCS 77] (see P.A. 91-0110, effective July 13, 1999).
- 5) Effective Date of Adopted Rules: January 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by

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- reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: December 17, 1999; 23 Ill. Reg. 14371
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: Nonsubstantive editorial corrections have been made.
In Section 900.103 under the definition of "Aquifer material", the phrase "or more" is deleted.
All references to "the effective date of this Part" have been changed to "January 1, 2001."
In Section 900.503(d), the phrase "Upon receipt of the construction plan and site investigation information, if required," has been changed to "Upon receipt of the site investigation information, if required, and construction,".
In Section 900.508(a), Section 900.812 and Section 900.813(c)(3), the phrase "the current edition of" has been deleted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Livestock Management Facilities Act [510 ILCS 77] was passed and became effective in 1996. This Act provided regulations for livestock producers and livestock facilities in the following areas: livestock waste lagoon registration and construction, waste management plan development, livestock manager certification, lagoon financial responsibility, and setback distance determination. Emergency rules were developed prior to the promulgation of final rules, which became effective May 20, 1997. Rules for the implementation of lagoon financial responsibility became effective November 12, 1998. All of these rules were promulgated by the Illinois Pollution Control Board (PCB).

Amendments to the Livestock Management Facilities Act were passed by the General Assembly during the 1997 Fall veto session and the 1999 Spring session. The veto session changes included the addition of secondary containment around livestock waste lagoons, public informational meetings

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for new or modified lagoon constructions, waste release reporting requirements for lagoon owners, inspections of lagoons, odor control enhancements for lagoons and other types of waste storage structures.

Several additions and changes were made to the Livestock Management Facilities Act as a result of the adoption of Senate Bill 1199 during the 1999 Spring session, including the following additional requirements: filing of notice of intent to construct forms prior to construction; filing of construction plans for all waste storage structures; consideration of eight siting criteria at public informational meetings; siting prohibitions in environmentally sensitive areas such as floodways of 100-year floodplains, karst areas, and shallow aquifer material areas; removal of waste and inspections for facilities removed from service; summation of animal units at commonly owned facilities for the determination of compliance with waste management plan requirements; and a phosphorus-based waste application requirement depending on soil test values. Amendments to existing requirements were also made, including the following: expansion of the public informational meeting requirement to include not only lagoons but other facilities above 1,000 animal units; inclusion of all types of waste storage structures and transportation equipment in the waste release reporting requirements; reducing the animal unit threshold in the waste management plan Section whereby a plan must be submitted and approved by the Illinois Department of Agriculture; and removal of the non-farm residence designation for residential setback determinations.

Additionally, the rule development authority was altered thereby necessitating the proposal of this Part 900 rule. Authority was transferred from the PCB to the Illinois Department of Agriculture for the promulgation of rules for much of the Livestock Management Facilities Act. Therefore, this rulemaking contains the procedures and requirements for complying with the Livestock Management Facilities Act with the exception of the design and construction standards for livestock waste structures. These standards will be promulgated by the Illinois Pollution Control Board in a separate proceeding.

- 16) Information and questions regarding these adopted rules shall be directed to:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

The full text of adopted rules begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER t: WASTE MANAGEMENT

PART 900

LIVESTOCK MANAGEMENT FACILITY REGULATIONS

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Severability
Definitions
Incorporations by Reference
Recordkeeping

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 900.504 Livestock Waste Handling Facilities Subject to the Public Informational Meeting Process
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SUBPART I: CERTIFIED LIVESTOCK MANAGER

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 900.901 Applicability

APPENDIX A Surety Instruments

ILLUSTRATION A Surety Bond

ILLUSTRATION B Irrevocable Standby Letter of Credit

AUTHORITY: Authorized by Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [510 ILCS 77] (see P.A. 91-0110, effective July 13, 1999).

SOURCE: Adopted at 24 Ill. Reg. 17868, effective

For chemical designations, in this Part, unless the context clearly indicates otherwise, brackets indicate subscript and parentheses indicate superscript.

SUBPART A: GENERAL PROVISIONS

Section 900.101 Applicability

This Subpart applies to 8 Ill. Adm. Code 900. The applicability of Subpart B, Setbacks, is set forth at Section 900.201 of this Part. The applicability of Subpart C, Notice of Intent to Construct, is set forth at Section 900.301 of this Part. The applicability of Subpart D, Public Informational Meeting, is set forth at Section 900.401 of this Part. The applicability of Subpart E,

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Livestock Waste Handling Facilities Other Than Lagoons, is set forth at Section 900.501 of this Part. The applicability of Subpart F, Lagoon Livestock Waste Handling Facilities, is set forth at Section 900.601 of this Part. The applicability of Subpart G, Lagoon Financial Responsibility, is set forth at Section 900.701 of this Part. The applicability of Subpart H, Waste Management Plan, is set forth at Section 900.802 of this Part. The applicability of Subpart I, Certified Livestock Manager, is set forth at Section 900.901 of this Part.

DEPARTMENT NOTE: Standards for the design and construction of livestock waste handling facilities, as required in Subparts E and F of this Part, are located at 35 Ill. Adm. Code 506 and are to be used in conjunction with 8 Ill. Adm. Code 900.

Section 900.102 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, such adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 900.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5] or the Livestock Management Facilities Act [510 ILCS 77]. For the purposes of this Part, the terms included in this Section shall have the following meanings:

"Agency" means the Illinois Environmental Protection Agency. [510 ILCS 77/10.5]

"Animal feeding operation" means a feeding operation as defined in the Illinois Environmental Protection Act and the rules promulgated under that act concerning agriculture related pollution. [510 ILCS 77/10.7]

"Animal unit" means a unit of measurement for any animal feeding operation calculated as follows:

Brood cows and slaughter and feeder cattle multiplied by 1.0.

Milking dairy cows multiplied by 1.4.

Young dairy stock multiplied by 0.6.

Swine weighing over 55 pounds multiplied by 0.4.

Swine weighing under 55 pounds multiplied by 0.03.

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Sheep, lambs, or goats multiplied by 0.1.

Horses multiplied by 2.0.

Turkeys multiplied by 0.02.

Laying hens or broilers multiplied by 0.005.

Laying hens or broilers multiplied by 0.01 (if the facility has continuous overflow watering).

Laying hens or broilers multiplied by 0.03 (if the facility has a liquid manure handling system).

Ducks multiplied by 0.02. [510 ILCS 77/10.10]

For species of animals in an animal feeding operation not specifically listed in this definition, the animal unit factor shall be determined by dividing the average mature animal weight by 1,000. The average mature animal weight shall be determined by the Department with guidance from the University of Illinois Cooperative Extension Service.

"Aquifer material" means sandstone that is five feet or more in thickness, or fractured carbonate that is ten feet or more in thickness; or, sand, gravel, or sand and gravel, as defined in this Section, such that there is at least two feet present within any five foot section of a soil boring performed in accordance with Subpart B or Subpart C of 35 Ill. Adm. Code 506.

"Certified livestock manager" means a person that has been duly certified by the Department as an operator of a livestock waste handling facility. [510 ILCS 77/10.15]

"Department" means the Illinois Department of Agriculture. [510 ILCS 77/10.20]

"Farm residence" means any residence on a farm owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers. For purposes of this definition, a "farm" is the land, buildings, and machinery used in the commercial production of farm products, and "farm products" are those plants and animals and their products which are produced or raised for commercial purposes and include but are not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or

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fur. [510 ILCS 77/10.23]

"Flood fringe" means that portion of the floodplain outside the floodway.

"Floodplain" means that land adjacent to a body of water with ground surface elevations at or below the 100-year frequency flood elevation.

"Floodway", for the six counties including Cook, DuPage, Kane, Lake, McHenry and Will, means the channel and that portion of the floodplain adjacent to a stream or watercourse as designated by the Illinois Department of Natural Resources pursuant to Section 189 of the Rivers, Lakes, and Streams Act [615 ILCS 5/18g], which is needed to store and convey the anticipated future 100-year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10% increase in velocities. [615 ILCS 5/18g(d)(1)] For the remaining 96 counties, "Floodway" means the channel of a river, lake or stream and that portion of the adjacent land area that is needed to safely store and convey flood waters. Where floodways have been delineated for regulatory purposes, the mapped lines show the floodway encroachment limits and will be used. For other areas, floodway limits will be estimated, using hydrologic and hydraulic calculations, to preserve adequate conveyance and storage so that stage increases for the 100-year frequency flood would not exceed 0.1 foot.

"Gravel" or "Sand and gravel" means unconsolidated materials that contain a matrix (particles of two millimeters or less) that is consistent with the definition of "sand" and particles larger than two millimeters in size.

"Inhabited residence" means an occupied residence.

"Karst area" means an area with a land surface containing sinkholes, large springs, disrupted land drainage, and underground drainage systems associated with karstified carbonate bedrock and caves or a land surface without these features but containing a karstified carbonate bedrock unit generally overlain by less than 60 feet of unconsolidated materials. [510 ILCS 77/10.24]

"Karstified carbonate bedrock" means a carbonate bedrock unit (limestone or dolomite) that has a pronounced conduit or secondary porosity due to dissolution of the rock along joints, fractures, or bedding plains. [510 ILCS 77/10.26]

"Lagoon" or "Earthen livestock waste lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon

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does not include structures such as manufactured slurry storage structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10.25]

"Licensed professional engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. [415 ILCS 5/57.2]

"Licensed professional geologist" means an individual who is licensed under the laws of the State of Illinois to engage in the practice of professional geology in Illinois. [225 ILCS 745/15]

"Livestock management facility" means any animal feeding operation, livestock shelter, or on-farm milking and accompanying milk-handling area. Two or more livestock management facilities under common ownership, where the facilities are not separated by a minimum distance of 1/4 mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. Livestock management facilities at educational institutions, livestock pasture operations, facilities where animals are housed on a temporary basis such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities are not subject to the Livestock Management Facilities Act or the requirements of this Part. [510 ILCS 77/10.30]

"Livestock shelter" means any covered structure, including but not limited to livestock houses or barns, in which livestock are enclosed at any time.

"Livestock waste" means livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]

"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership and where the facilities are not separated by a minimum distance of 1/4 mile shall be considered a single livestock waste handling facility. [510 ILCS 77/10.40] Livestock waste handling facilities at educational institutions, livestock pasture operations, facilities where animals are housed on a temporary basis, such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities, are not subject to the Livestock

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Management Facilities Act or the requirements of this Part.

"Maintained" means, with reference to a lagoon, that the lagoon is inspected (including but not limited to inspection for burrow holes, trees and woody vegetation, proper freeboard, erosion, settling of berm, berm top integrity, leaks, and seepage) and preventive action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances.

"Modified" means structural changes to a lagoon that increase its volumetric capacity. [510 ILCS 77/10.43]

"New facility" means a livestock management facility or a livestock waste handling facility the construction or expansion of which is commenced on or after May 21, 1996 (the effective date of the Livestock Management Facilities Act). Expanding a facility where the fixed capital cost of the new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility shall not be deemed a new facility as used in the Livestock Management Facilities Act. [510 ILCS 77/10.45] For facilities that have ceased operation on or after July 13, 1999, commencement of operations at a facility that has livestock shelters left intact and that has completed the requirements imposed under Section 13(k) of the Livestock Management Facilities Act [510 ILCS 77/13(k)] and Section 900.508 of this Part and that has been operated as a livestock management facility for 4 consecutive months at any time within the previous 10 years shall not be considered a new or expanded livestock management or waste handling facility.

"Non-farm residence" means any residence which is not a farm residence. [510 ILCS 77/10.47]

"Occupied residence" means a house or other type of shelter that is intended or used for human occupancy and has been occupied by humans for more than a total of six months in the last two years at that location. For the purposes of this definition, "intended or used for human occupancy" means running water and sanitation are provided within the residence.

"Owner or operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling

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facility. [510 ILCS 77/10.50]

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Placed in service" means the placement of livestock waste in a livestock waste handling facility upon the completion of construction or modification in accordance with the requirements of this Part.

"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week. [510 ILCS 77/10.60] The existence of a populated area shall be determined by identifying the area around the livestock management or livestock waste handling facility delineated by a distance equal to the applicable setback distance and identifying the number of residences or the existence of a non-farm business or the existence of a common place of assembly within that area. For the purpose of setback requirements, common places of assembly or non-farm businesses include but are not limited to churches, hospitals, schools, day care centers, manufacturing companies, land managed for recreational or conservation purposes, museums, camps, parks, retail and wholesale facilities, and shopping centers. A common place of assembly or a non-farm business includes places that operate less than 52 weeks per year, such as schools with seasonal vacation periods and businesses or other places which experience seasonal shutdowns, and parks, camps, and recreational areas which experience seasonal shutdowns or reduced attendance during a portion of the calendar year, provided that such places are frequented by at least 50 persons at least once per week during the portions of the year when seasonal shutdowns or reductions in attendance do not occur.

"Residence" means a house or other structure, including all attachments to the house or structure, which is used as a place of human habitation.

"Sand" means unconsolidated materials, where 70% or more of the particles are of size 0.06 millimeters to 2.00 millimeters, and which according to the USDA soil texture classification scheme includes soil textures of sand and loamy sand and portions of sandy loam and sandy clay loam.

"Serviced" means, with reference to a lagoon, that corrective action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances, including but not limited to removal or repair of burrow holes, trees and woody vegetation,

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freeboard level, erosion, settling of berm, berm top maintenance, leaks, and seepage.

Section 900.104 Incorporations by Reference

- a) The following materials are incorporated by reference:
 - 1) APHA. American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005, (202) 789-5600, "Standard Methods for the Examination of Water and Wastewater", 19th Edition, 1995.
 - 2) ASAE. American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659, (616) 429-5585: "Manure Storages", ASAE Standards 1998, ASAE EP393.2, December 1997, pp. 649-652.
 - "Design of Anaerobic Lagoons for Animal Waste Management", ASAE Standards 1998, ASAE EP403.2, August 1993, pp. 656-659.
 - 3) MWPS. Midwest Plan Service, Davidson Hall, Iowa State University, Ames, IA 50011-3080, (515) 294-4337, "Livestock Waste Facilities Handbook" MWPS-18, 3rd Edition, 1993.
 - 4) NCR. North Central Region - University of Missouri Soil Testing Lab, 23 Mumford Hall, University of Missouri, Columbia, MO 65211, "Recommended Chemical Soil Test Procedures for the North Central Region", North Central Regional Publication No. 221, Missouri Agr. Exp. Stn. Bul. SB 1001, January 1998.
 - 5) NPIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA Publication No. EPA-600/R-93/100 (August 1993), Doc. No. PB 94-120821.
 - 6) USDA-NRCS. United States Department of Agriculture - Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, "Waste Treatment Lagoon", Illinois Field Office Technical Guide, Section IV, IL359, p. 5, June 1992.
 - 7) University of Illinois Extension Service - College of Agriculture, Consumer and Environmental Sciences, Mumford Hall, Urbana, IL 61801, (217) 333-0460, "Illinois Agronomy Handbook 1999-2000", Circular 1360, December 1998.
- b) This Section incorporates no later amendments or editions.

Section 900.105 Recordkeeping

- a) The Department shall maintain a file for all facilities registering or otherwise filing documents with the Department under this Part.
- b) The file shall contain all registration materials, along with all supporting data and justifications, records of Department certification and determinations, groundwater monitoring results (if required), waste management plans (if required), and any other information submitted to the Department by the owner or operator of a facility.

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- c) Where a notice of intent to construct has been filed pursuant to Subpart C of this Part, the Department shall maintain a file that includes all filings and supporting data and justification that it relied upon in making its determination regarding compliance with the setback distances. This file is subject to public inspection.
- d) Materials in the file required by this Section shall be available for public inspection and copying, subject to the Freedom of Information Act [5 ILCS 140].

SUBPART B: SETBACKS

Section 900.201 Applicability

- a) All new livestock management or livestock waste handling facilities shall comply with the setback distances as established in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35] and with the provisions of this Subpart.
- b) Commencement of operations at a facility reconstructed within two years after partial or total destruction due to natural causes, such as tornado, fire, flood, or earthquake, shall not be considered the location of a new livestock management or waste handling facility for setback purposes. Likewise, a residence partially or totally destroyed due to natural causes, such as tornado, fire, flood, or earthquake, shall retain its original setback for a period of no greater than two years, to allow for reconstruction of the residence.

Section 900.202 Procedures

- a) *Grandfather provision: Facilities in existence prior to July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence prior to July 15, 1991 shall comply with setbacks in existence prior to July 15, 1991, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501.402. [510 ILCS 77/35(a)]*
- b) *Grandfather provision: Facilities in existence on effective date and after July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence on May 21, 1996 (the effective date of the Livestock Management Facilities Act) but after July 15, 1991 shall comply with setbacks in existence prior to May 21, 1996, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501.402. [510 ILCS 77/35(b)]*
- c) *New livestock management or livestock waste handling facilities. Any new facility shall comply with the following setbacks:*
 - 1) *Residence: For purposes of determining setback distances, minimum distances shall be measured from the nearest corner of the residence to the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility, whichever is closer.*

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2) Common Place of Assembly or Non-Farm Business: For the purposes of determining setback distances between a common place of assembly or non-farm business:

A) When the primary activity at a common place of assembly or non-farm business is an outdoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest point on the legal property line of the common place of assembly or non-farm business.

B) When the primary activity at a common place of assembly or non-farm business is not an outdoor activity and is an indoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest corner of the structure where the indoor activity takes place.

3) A livestock management facility or livestock waste handling facility serving less than 50 animal units shall be exempt from setback distances as set forth in the Livestock Management Facilities Act but shall be subject to rules promulgated under the Illinois Environmental Protection Act.

4) For a livestock management facility or waste handling facility serving 50 or greater but less than 1,000 animal units, the minimum setback distance shall be 1/4 mile from the nearest occupied residence and 1/2 mile from the nearest populated area.

5) For a livestock management facility or livestock waste handling facility serving 1,000 or greater but less than 7,000 animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be increased 440 feet over the minimum setback of 1/2 mile for each additional 1,000 animal units over 1,000 animal units.

B) For any occupied residence, the minimum setback shall be increased 220 feet over the minimum setback of 1/4 mile for each additional 1,000 animal units over 1,000 animal units.

6) For a livestock management facility or livestock waste handling facility serving 7,000 or greater animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be 1 mile.

B) For any occupied residence, the minimum setback shall be 1/2 mile. [510 ILCS 77/35(c)]

d) Requirements governing the location of a new livestock management facility and new livestock waste handling facility and conditions for exemptions or compliance with the maximum feasible location as provided in 35 Ill. Adm. Code 501.402 concerning agriculture related pollution shall apply to those facilities identified in subsections (b) and (c) of this Section. With regard to the maximum feasible location requirements, any reference to a setback distance in 35 Ill.

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Adm. Code 501.402 shall mean the appropriate distance as set forth in this Section. [510 ILCS 77/35(d)]

e) Setback category for a livestock management facility or livestock waste handling facility shall be determined by the maximum design capacity in animal units of the livestock management facility. [510 ILCS 77/35(e)] For the purposes of this Subpart, the maximum design capacity of a livestock management facility shall equal the summation of the maximum existing design capacity and the maximum proposed design capacity, both expressed in animal units, of the livestock management facilities not separated by greater than 1/4 mile.

f) Setbacks may be decreased when innovative designs as approved by the Department are incorporated into the facility. [510 ILCS 77/35(f)]

1) An owner or operator shall request a setback decrease in writing prior to construction.

2) An owner or operator shall attach to the request for decrease a certification by a Licensed Professional Engineer that in the professional judgment of the Licensed Professional Engineer the innovative designs incorporated into the facility will provide more odor protection than the original setbacks.

3) The Department shall notify the owner or operator of its determination within 30 days after the receipt of the request for decrease. In approving a reduction in setbacks due to innovative designs, the Department shall specifically find that such use of an innovative design will provide more odor protection than the original setbacks.

4) Where the Department grants such a decrease from the setbacks, the Department must maintain a file which includes all supporting data and justification which it relied upon in making its determination. This file is subject to public inspection.

g) A setback may be decreased when waivers are obtained from owners of residences that are occupied and located in the setback area. [510 ILCS 77/35(g)] A setback also may be decreased when waivers are obtained from owners of non-farm businesses or common places of assembly that are located in the setback area.

1) An owner or operator request for a setback decrease shall be in writing and submitted to the Department prior to construction.

2) An owner or operator shall attach to the request copies of the written and notarized waivers from all the owners of the residences, non-farm businesses, and common places of assembly that are located within the setback area.

3) Within 30 days after receipt of the request and waivers, the Department shall notify the owner or operator in writing of the setback decrease.

4) When such a decrease from the setbacks is requested, the Department must maintain a file which includes all supporting data and justification concerning the setback decrease. This file is subject to public inspection.

Section 900.203 Penalties

- a) For violations of the setback distance requirements, the Department may issue one of the following to the owner or operator of the livestock management facility or livestock waste handling facility:
- 1) If during construction, a cease and desist order which prohibits further construction of the livestock management facility or livestock waste handling facility, prohibits entry of livestock into the livestock management facility, and prohibits use of the livestock waste handling facility; or
 - 2) An operational cease and desist order.
- b) A cease and desist order issued by the Department pursuant to subsection (a) of this Section shall be canceled by the Department pursuant to the following:
- 1) Submission to the Department of a valid waiver as provided for in Section 900.202(g) of this Subpart by the livestock management facility owner or operator or the livestock waste handling facility owner or operator; or
 - 2) Verification by the Department of compliance with the appropriate setback distances as described in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35].

SUBPART C: NOTICE OF INTENT TO CONSTRUCT

Section 900.301 Applicability

This Subpart applies to any owner or operator who proposes to construct a livestock management facility or livestock waste handling facility.

Section 900.302 Filing

An owner or operator shall file, on a form provided by the Department, a notice of intent to construct, for a livestock management facility or livestock waste handling facility with the Department prior to construction to establish a base date, which shall be valid for one year, for determination of setbacks in compliance with setback distances or, in the case of construction that is not a new facility or a facility of less than 50 animal units, with the maximum feasible location requirements of Section 35 of the Livestock Management Facilities Act. [510 ILCS 77/11(a)]

Section 900.303 Procedures

- a) The notice of intent to construct shall contain the following items:
- 1) A legal description of the land on which the livestock facility will be constructed;
 - 2) The names and addresses of the owners or operators of the facility;
 - 3) The type and size of the facility;

- 4) The existing, proposed, and total number of animal units at the facility;
 - 5) The names and addresses of the owners, including local, State, and federal governments, of the property located within the setback areas;
 - 6) The distance to the nearest residence, non-farm business, and common place of assembly as referenced in the definition of "populated area" in Section 900.103 of this Part;
 - 7) A map or sketch showing the proposed facility and setback areas, identifying within the applicable setback areas all the residences, non-farm businesses, and common places of assembly as referenced in the definition of "populated area" in Section 900.103 of this Part; and
 - 8) A statement identifying whether a request for decrease in setbacks, pursuant to Section 900.202(f) or (g), has been sought and whether the request has been granted or denied yet.
- b) For livestock management or livestock waste handling facilities that are not subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:
- 1) Upon receipt of the notice of intent to construct form, the Department shall review the documents to determine if all information has been submitted or if clarification is needed. The Department shall, within 15 calendar days after receipt of a notice of intent to construct form, notify the owner or operator that construction may begin, only after receipt and approval by the Department of the construction plans pursuant to Subpart E of this Part, or that clarification of the notice of intent to construct information is needed. [510 ILCS 77/11(b)]
 - 2) The Department shall, within 15 calendar days after receipt of the clarification information submitted pursuant to this subsection or subsection (b)(1) of this Section, notify the owner or operator that construction may begin only after receipt and approval by the Department of the construction plans pursuant to Subpart E of this Part, or that clarification of the notice of intent to construct information is needed.
 - 3) Within 15 calendar days after receipt by the Department of information that completes the notice of intent to construct form, the Department shall issue an acknowledgement of setback compliance to the owner or operator if the Department has determined that the owner or operator has complied with the setback and notice of intent to construct requirements of this Part.
 - 4) Within 10 calendar days after receipt of the Department's acknowledgment pursuant to subsection (b)(3) of this Section, the owner or operator shall mail by certified mail, return receipt requested, a copy of the complete notice of intent to construct

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to the owners of the property located within the setback areas. The owners of the property located within the setback areas are presumed, unless established to the contrary, to be the persons shown by the current tax collector's warrant book to be the party in whose name the taxes were last assessed.

- 5) Construction shall not begin until the acknowledgment of setback compliance has been issued by the Department to the owner or operator pursuant to this Section, copies of the complete notice of intent to construct form have been mailed to owners of property within the setback areas, and construction plans for the livestock waste handling facility have been approved by the Department.

- c) For livestock management or livestock waste handling facilities that are subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Subpart D of this Part, the following procedures shall be followed:
 - 1) Within 15 calendar days after receipt of a notice of intent to construct form by the Department, the Department shall review the form and notify the owner or operator that all information regarding the form has been submitted or that clarification is needed. Upon receipt of any clarification information, the Department shall, within 15 calendar days after receipt of the information, review the information and notify the owner or operator that all information has been submitted or that additional clarification is needed.

- 2) If a public informational meeting is not held, the Department shall issue an acknowledgment of setback compliance to the owner or operator within 10 calendar days after the expiration of the time period for the county board to request a meeting pursuant to Section 900.403 of this Part if the Department has determined that the owner or operator has complied with the setback and notice of intent to construct requirements of this Part. If a notice of intent to construct requirements of this Part. If a public informational meeting is held, the Department shall issue an acknowledgment of setback compliance to the owner or operator within 10 calendar days after receipt of the county board's recommendation pursuant to Section 900.406 of this Part if the Department has determined that the owner or operator has complied with the setback and notice of intent to construct requirements of this part.

- 3) Within 10 calendar days after notification by the Department to the owner or operator that all information has been submitted pursuant to subsection (c)(1) of this Section, the owner or operator of the proposed facility shall mail by certified mail, return receipt requested, a copy of the complete notice of intent to construct form to the owners of property located within the setback areas. The owners of the property located within the setback distances are presumed, unless established to the

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contrary, to be the persons shown by the current collector's warrant book to be the party in whose name the taxes were last assessed.

- 4) Construction shall not commence until the acknowledgment of setback compliance has been issued by the Department and the provisions set forth in Sections 900.407 and 900.409 of this Part have been met.
- 5) Upon receipt of a complete notice of intent to construct form or information that completes a notice of intent to construct form, the Department shall provide notice to the county board of the county which the facility is to be located and to the public pursuant to Subpart D of this Part.

Section 900.304 Establishment of Base Date and Setback Period

- a) The date the Department issues the acknowledgment of setback compliance pursuant to Section 900.303(b)(3) of this Part or notifies the owner or operator that all information has been submitted pursuant to Section 900.303(c)(1) of this Part establishes the base date for the determination of whether residences, non-farm businesses, or common places of assembly exist for setback purposes.
- b) The setback period shall begin on the base date. The setback period shall expire one year after the establishment of the base date unless one or more of the following occurs:
 - 1) A lagoon registration form, for construction on the site, has been approved by the Department pursuant to Subpart F of this Part, all applicable requirements of the Livestock Management Facilities Act have been met, and construction has commenced;
 - 2) A livestock waste handling facility registration form, for facilities subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Subpart D of this Part, is filed with the Department, all applicable requirements of the Livestock Management Facilities Act and this Part have been met, and construction of the livestock management facility or livestock waste handling facility has commenced; or
 - 3) A livestock waste handling facility construction plan, for facilities not subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act, is filed with the Department, all applicable requirements of the Livestock Management Facilities Act and this Part have been met, and construction of the livestock management facility or livestock waste handling facility has commenced.
- 4) The setback period shall not expire if a certification of compliance, prepared in accordance with Section 900.506(a) or Section 900.605(b) of this Part, has been received and approved by the Department within 3 years after the base date. The owner or operator may extend the 3 year setback period by an additional

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2 years by submitting a written request to the Department prior to the expiration of the 3 year period. Within 15 days after receipt of the written request by the Department, the Department shall notify the owner or operator that the request has been granted.

c) If the Department determines that the owner or operator has complied with the setback requirements and the provisions of this Subpart, residences, non-farm businesses, or common places of assembly established after the base date cannot operate to affect the setback as initially determined subject to the limitation in subsection (b) of this Section.

d) For the purposes of this Subpart, "construction" means the commencement of on-site activities including, but not limited to, foundation preparation, fabrication, erection, or installation.

Section 900.305 Penalties

Any owner or operator who fails to file a notice of intent to construct form with the Department prior to commencing construction, upon being discovered by the Department, shall be subject to an administrative hearing by the Department. The administrative law judge, upon determination of a failure to file the appropriate form, shall impose a civil administrative penalty in an amount no more than \$1,000 and shall enter an administrative order directing that the owner or operator file the appropriate form within 10 business days after receiving notice from the Department. If, after receiving the administrative law judge's order to file, the owner or operator fails to file the appropriate form with the Department, the Department shall impose a civil administrative penalty in an amount no less than \$1,000 and no more than \$2,500 and shall enter an administrative order prohibiting the operation of the facility until the owner or operator is in compliance with the Livestock Management Facilities Act [510 ILCS 77] and this Subpart. Penalties under this Section not paid within 60 days after notice from the Department shall be submitted to the Attorney General's office or an approved private collection agency. [510 ILCS 77/11(d)]

SUBPART D: PUBLIC INFORMATIONAL MEETING

Section 900.401 Applicability

This Subpart establishes procedures for conducting informational meetings on notices of intent to construct received by the Department after January 1, 2001 for all new livestock management facilities and livestock waste handling facilities serving 1,000 or more animal units that do not propose to utilize a lagoon and all livestock management facilities or livestock waste handling facilities that propose to utilize a lagoon.

Section 900.402 Notice

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- a) Within 7 calendar days after receiving a complete form giving notice of intent to construct a new livestock management facility or livestock waste handling facility serving 1,000 or more animal units that does not propose to utilize a lagoon or a livestock management facility or livestock waste handling facility that does propose to utilize a lagoon, the Department shall:
- 1) Send a copy of the notice form to the county board of the county in which the facility is to be located;
 - 2) Publish a public notice in a newspaper of general circulation within the county in which the facility is to be located [510 ILCS 77/12(a)]; and
 - 3) Send a copy of the notice to be published in the newspaper, pursuant to subsection (a)(2) of this Section, to the owner or operator.

For the purposes of this Subpart, a complete form means that all items listed in Section 900.303(a) of this Part and included on the notice of intent to construct form have been completed by the owner or operator, the form has been reviewed by the Department, and all clarification information has been received by the Department.

- b) The notice in the newspaper shall include:
- 1) The date the Department received the notice of intent to construct;
 - 2) The type and size of the facility and the number of animal units proposed;
 - 3) The general location of the facility;
 - 4) The name of the facility;
 - 5) The date the notice form was sent to the county board;
 - 6) A summary of how the county board may request the Department to conduct an informational meeting concerning the proposed construction; and
 - 7) Any additional information the Department may consider necessary or proper.

Section 900.403 Request for Informational Meeting

- a) Within 30 calendar days after receipt of notice under Section 900.402(a)(1), the county board may request in writing that the Department conduct an informational meeting concerning the proposed construction [510 ILCS 77/12(a)]:
- 1) Based on its own discretion; or
 - 2) Based on a petition, received by the county board within 30 calendar days after receipt of notice under Section 900.402(a)(1), by residents of the county where the proposed facility will be located that the Department conduct an informational meeting.
- b) Within 30 calendar days after receipt of the notice under Section 900.402(a)(1), the county board shall request that the Department conduct an informational meeting concerning the proposed construction

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when the county board has received a petition within 30 calendar days after receipt of the notice under Section 900.402(a)(1) by 75 or more of the county's residents who are registered voters. [510 ILCS 77/12(a)]

Section 900.404 Notice of Informational Meeting

a) After receipt of the request to hold an informational meeting, the Department shall:

- 1) Publish a notice of the meeting in a newspaper of general circulation in the county where the facility is to be located;
- 2) Publish a notice of the meeting in the State newspaper; and
- 3) Send a copy of the notice to the county board in sufficient time for the county board to post the notice as required by subsection (c) of this Section.

b) The notice of an informational meeting must contain the following information:

- 1) Date, time and place of the meeting;
- 2) The type and size of the facility and the number of animal units proposed;
- 3) The general location of the facility;
- 4) The name of the facility;
- 5) A summary of how the informational meeting will be conducted and how persons may comment; and
- 6) Any additional information the Department may consider necessary or proper.

c) Upon receipt of the notice of the informational meeting under subsection (a)(3) of this Section, the county board shall post the notice on the public informational board at the county courthouse at least 10 calendar days before the meeting. [510 ILCS 77/12(a)]

Section 900.405 Conduct of Informational Meeting

a) Within 15 business days after receipt of a county board's request to conduct an informational meeting, the Department shall appoint a hearing officer, in accordance with 8 Ill. Adm. Code 1.22(a), to conduct the informational meeting, and conduct an informational meeting on the proposed construction in the county where the proposed facility is to be located.

b) The hearing officer shall have the duty to conduct a fair informational meeting, take all necessary action to avoid delay, maintain order, and ensure the development of a clear, complete, and concise record. The hearing officer shall have all powers necessary to these ends, including but not limited to the authority to:

- 1) Require all participants to state their position with respect to the proposed facility;
- 2) Administer oaths and affirmations;
- 3) Regulate the course of the meeting, including but not limited to

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c) controlling the order of proceedings; and
 4) Establish reasonable limits on the duration of the testimony and questioning of any witness and limit repetitious or cumulative testimony and questioning.

c) The hearing officer shall state at the beginning of the informational meeting the manner in which the meeting will be conducted, time limits for testifying, and any other procedures for conducting the meeting. Procedures and time limits may vary according to the number of people wishing to testify, the time the meeting starts, weather conditions, and other situations affecting the length of the meeting.

d) At the meeting, the Department shall afford members of the public an opportunity to ask questions and present oral or written comments concerning the proposed construction. [510 ILCS 77/12(a)] All persons presenting oral comments shall be sworn in and comments shall be in narrative form. All persons presenting oral comments shall be subject to questioning by any person.

e) Any person requesting time to make an oral comment at the informational meeting must register prior to the beginning of the meeting. Persons shall be called to testify in the order of registration, unless the hearing officer determines otherwise.

f) All written comments shall be:

- 1) Addressed to the Director or Hearing Officer, Illinois Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, IL 62794-9281, unless otherwise instructed by the hearing officer;
- 2) Legible with lines double spaced, except that long quotations may be single spaced, on white paper measuring 8 1/2 inches by 11 inches; and
- 3) Signed by the party filing the comment or by an officer, agent, or attorney thereof and shall contain the address of the party filing the comment, or, if the filing party is an attorney, the name and address of such attorney.

g) The owner or operator who submitted the notice of intent to construct to the Department shall appear at the informational meeting. [510 ILCS 77/12(a)] At the informational meetings, the owner or operator may supply in written form to the meeting attendees a summary of the response to each of the subjects set forth in subsection (h) of this Section.

h) At the informational meeting, the Department shall receive evidence by testimony or otherwise on the following subjects:

- 1) Whether registration and livestock waste management plan certification requirements, if required, are met by the notice of intent to construct;
- 2) Whether the design, location, or proposed operation will protect the environment by being consistent with the Livestock Management Facilities Act [510 ILCS 77];
- 3) Whether the location of the facility minimizes any incompatibility with the surrounding area's character by being

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located in any area zoned for agriculture where the county has zoning or, where the county is not zoned, the setback requirements established by the Livestock Management Facilities Act are complied with;

- 4) Whether the facility is located within a 100-year floodplain or an otherwise environmentally sensitive area (defined as an area of karst area or with aquifer material within 5 feet of the bottom of the livestock waste handling facility) and whether construction standards set forth in the notice of intent to construct are consistent with the goal of protecting the safety of the area;
- 5) Whether the owner or operator has submitted plans for operation that minimize the likelihood of any environmental damage to the surrounding area from spills, runoff, and leaching;
- 6) Whether odor control plans are reasonable and incorporate reasonable or innovative odor reduction technologies given the current state of such technologies;
- 7) Whether traffic patterns minimize the effect on existing traffic flows; and
- 8) Whether construction or modification of a new facility is consistent with existing community growth, tourism, recreation, or economic development or with specific projects involving community growth, tourism, recreation, or economic development that have been identified by government action for development or operation within one year through compliance with applicable zoning and setback requirements for populated areas as established by the Livestock Management Facilities Act. [510 ILCS 77/12(d)]
- i) In the absence of a specific provision in this Subpart governing the conduct of the informational meeting, the Department's procedural rules or a particular provision of the Code of Civil Procedure may provide guidance to the Department or hearing officer.

Section 900.406 County Board Recommendation

At the informational meeting or within 30 business days following the meeting, the county board shall submit to the Department an advisory, non-binding recommendation about the proposed new facility's construction in accordance with the applicable requirements of the Act. The advisory, non-binding recommendation shall contain, at a minimum, the following:

- a) A statement of whether the proposed facility achieves or fails to achieve each of the 8 sitting criteria described in subsection (d) of Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12(d)] and Section 900.405(h) of this Subpart; and
- b) A statement of the information and criteria used by the county board in determining that the proposed facility met or failed to meet any of the criteria described in subsection (d) of Section 12 of the Livestock Management Facilities Act and Section 900.405(h) of this

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Subpart. [510 ILCS 77/12(b)]

Section 900.407 Final Determination

- a) Within 15 calendar days after the close of the comment period under Section 900.406 of this Subpart, the Department shall determine:
 - 1) That, more likely than not, the provisions of the Livestock Management Facilities Act [510 ILCS 77] have been met [510 ILCS 77/12.1(a)];
 - 2) That, more than likely than not, the provisions of the Livestock Management Facilities Act [510 ILCS 77] have not been met; or
 - 3) That additional information or specific changes are needed in order to assist the Department in making the determination.
- b) If the Department determines after an informational meeting that, more likely than not, the provisions of the Livestock Management Facilities Act have been met, the Department shall send written notice by certified mail, return receipt requested, to the applicant and the county board indicating that construction may proceed provided the other applicable provisions of the Livestock Management Facilities Act have been met. [510 ILCS 77/12.1(a)]
- c) If the Department determines after an informational meeting that, more likely than not, the provisions of the Livestock Management Facilities Act have not been met, the Department shall send written notice by certified mail, return receipt requested, to the applicant and the county board that construction is prohibited. [510 ILCS 77/12.1(a)] The notice shall also include the reasons for the construction prohibition.
- d) If the Department finds, after an informational meeting, that additional information or that specific changes are needed in order to assist the Department in making the determination, the Department may request such information or changes from the owner or operator of the new livestock waste handling facility or livestock management facility. [510 ILCS 77/12.1(a-5)] No later than 10 working days after the receipt of the clarification information, the Department shall notify the applicant and the county board in writing by certified mail, return receipt requested, whether, more likely than not, the provisions of the Livestock Management Facilities Act have been met and construction may proceed, whether additional information is required, or whether construction is prohibited.
- e) If no informational meeting is held, the Department shall, within 15 calendar days following the end of the period for the county board to request an informational meeting, notify in writing by certified mail, return receipt requested, the owner or operator that construction may begin provided the other applicable provisions of the Livestock Management Facilities Act have been met, is prohibited or that clarification is needed. [510 ILCS 77/12.1(b)] No later than 10 working days after the receipt of the clarification information, the Department shall notify the applicant and the county board in writing

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by certified mail whether the provisions of the Livestock Management Facilities Act have been met and whether construction may proceed or is prohibited.

- f) Final decisions of the Department are subject to judicial review pursuant to the Administrative Review Law [735 ILCS 5/Art. III]. For purposes of judicial review, the Department's decision becomes final as of the date of the decision. The procedure for stay or reconsideration of any final Department decision by the Department shall be as provided for in the Department's administrative rules at 8 Ill. Adm. Code 1.

Section 900.408 Amendment to Plans

- a) *If the owner or operator of a proposed livestock management facility or livestock waste handling facility amends the facility plans during the Department's review by increasing the maximum design capacity of the livestock management facility or livestock waste handling facility, changing the type of livestock waste handling facility, altering the facility location which results in a change in the status of residences and common places of assembly in setback areas, or otherwise changing or modifying any substantial feature of the facility design, the Department shall notify the county board, which may exercise its option of a public informational meeting pursuant to Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Section 900.403 of this Subpart. [510 ILCS 77/12.1(c)] If a request for an informational meeting is made, the Department shall follow the procedures as outlined in this Subpart. If no request for an informational meeting is made, the Department shall make its final determination in accordance with Section 900.407 of this Subpart.*
- b) *If the owner or operator of a proposed new livestock management or new livestock waste handling facility amends the facility plans during the Department's review process by increasing the animal unit capacity of the facility such that the required setback distances will be increased, the owner or operator shall submit a revised notice of intent to construct and comply with applicable provisions of the Livestock Management Facilities Act and the requirements of this Subpart. [510 ILCS 77/12.1(d)]*

Section 900.409 Construction

- a) *When the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new livestock waste handling facility is or will be in compliance with the requirements of the Livestock Management Facilities Act [510 ILCS 77], and the owner, operator, or certified manager and operator has received the Department's notice*

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that the setbacks and all applicable requirements of the Livestock Management Facilities Act have been met. [510 ILCS 77/12(c)]

b) *If no informational meeting is requested, construction shall not begin until after the Department has reviewed the notice of intent to construct and determined that the requirements of the Livestock Management Facilities Act have been met.*

SUBPART E: LIVESTOCK WASTE HANDLING FACILITIES OTHER THAN LAGOONS**Section 900.501 Applicability**

The applicability of this Subpart shall be as follows:

- a) *Section 900.502 of this Subpart applies to new livestock management facilities and livestock waste handling facilities, other than livestock waste lagoons, constructed after January 1, 2001;*
- b) *Section 900.503 of this Subpart applies to livestock waste handling facilities, other than livestock waste lagoons, constructed after January 1, 2001 that are not subject to the public informational meeting process;*
- c) *Section 900.504 of this Subpart applies to livestock waste handling facilities, other than livestock waste lagoons, constructed after January 1, 2001 that are subject to the public informational meeting process;*
- d) *Sections 900.505, 900.506, and 900.507 of this Subpart apply to livestock waste handling facilities, other than livestock waste lagoons, constructed after January 1, 2001;*
- e) *Section 900.508 of this Subpart applies to any livestock management facility not utilizing a livestock waste lagoon;*
- f) *Section 900.509 of this Subpart applies to new livestock management facilities not utilizing a livestock waste lagoon constructed after May 21, 1996;*
- g) *Section 900.510 of this Subpart applies to any livestock waste handling facility not utilizing a livestock waste lagoon; and*
- h) *Section 900.511 of this Subpart applies to new livestock waste handling facilities, other than livestock waste lagoons, constructed after January 1, 2001 required to conduct perimeter drainage tubing sampling pursuant to 35 Ill. Adm. Code 506.*

Section 900.502 Siting Restrictions and Additional Construction Requirements

New livestock management facilities and livestock waste handling facilities constructed after January 1, 2001 shall be subject to the additional construction requirements and siting prohibitions provided in this Section. [510 ILCS 77/13(b)]

- a) *No new non-lagoon livestock management facility or livestock waste handling facility may be constructed within the floodway of a 100-year floodplain. A new livestock management facility or livestock waste handling facility may be constructed within the portion of a 100-year*

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floodplain that is within the flood fringe and outside the floodway provided that the facility is designed and constructed to be protected from flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5], Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). The delineation of floodplains, floodways, and flood fringes shall be in compliance with the National Flood Insurance Program. Protection from flooding shall be consistent with the National Flood Insurance Program and shall be designed so that stored livestock waste is not readily removed. [510 ILCS 77/13(b)(1)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

b) A new non-lagoon livestock waste handling facility constructed in a karst area shall be designed to prevent seepage of the stored material into groundwater in accordance with ASAE EP393.2 or future updates. Owners or operators of proposed facilities should consult with the local soil and water conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. Notwithstanding the other provisions of this subsection (b), after July 13, 1999, no non-lagoon livestock waste handling facility may be constructed within 400 feet of any natural depression in a karst area formed as a result of subsurface removal of soil or rock materials that has caused the formation of a collapse feature that exhibits internal drainage. For the purposes of this subsection (b), the existence of such a natural depression in a karst area shall be indicated by the uppermost closed depression contour lines on a USGS 7 1/2 minute quadrangle topographic map or as determined by Department field investigation in a karst area. [510 ILCS 77/13(b)(2)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

c) A new non-lagoon livestock waste handling facility constructed in an area where aquifer material is present within 5 feet of the bottom of the facility shall be designed to ensure the structural integrity of the containment structure and to prevent seepage of the stored material to groundwater. Footings and underlying structure support shall be incorporated into the design standards of the storage structure in accordance with the requirements of Section 4.1 of the American Society of Agricultural Engineers (ASAE) EP393.2 or future updates. [510 ILCS 77/13(b)(3)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

Section 900.503 Livestock Waste Handling Facilities Not Subject to the Public Informational Meeting Process

For a livestock waste handling facility, other than a livestock waste lagoon, that is not subject to the public informational meeting process as outlined in

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Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:

a) For a new livestock waste handling facility, a site investigation shall be conducted in accordance with Subpart C of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. A livestock waste handling facility owner may rely on guidance from the local soil and water conservation district, the Natural Resources Conservation Service of the United States Department of Agriculture, or the University of Illinois Cooperative Extension Service for soil type and associated information. [510 ILCS 77/13(c)]

b) A construction plan of the waste handling structure with design specifications of the structure noted as prepared by or for the owner or operator shall be filed with the Department at least 10 calendar days prior to the anticipated dates of construction. [510 ILCS 77/11(b)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

c) For a livestock waste handling facility required to conduct a site investigation pursuant to subsection (a) of this Section, the construction plan required pursuant to subsection (b) of this Section shall include a certification statement from the owner or operator on a form provided by the Department. The statement shall certify that the site investigation meets all the applicable requirements of subsection (a) of this Section and Subpart C of 35 Ill. Adm. Code 506, and whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. The statement shall be accompanied by supporting justification, data, and the results of the site investigation, all from a Licensed Professional Engineer or Licensed Professional Geologist or by a representative of the Natural Resources Conservation Service of the United States Department of Agriculture designated to perform such functions.

d) Upon receipt of the site investigation information, if required, and construction plan, the Department shall review the documents to determine if all information has been submitted or if clarification is needed. The Department shall, within 15 calendar days after receipt of the construction plan, notify the owner or operator that construction may begin, if all applicable requirements of the Livestock Management Facilities Act [510 ILCS 77] and this Part have been met, or that clarification is needed. [510 ILCS 77/11(b)] No later than 15 calendar days after receipt of the clarification

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information, the Department shall notify the owner or operator that construction may begin, if all applicable requirements of the Livestock Management Facilities Act and this Part have been met, or that additional clarification is needed.

Section 900.504 Livestock Waste Handling Facilities Subject to the Public Informational Meeting Process

For a livestock waste handling facility, other than a livestock waste lagoon, that is subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:

a) The owner or operator shall file a completed registration with the Department, on a form provided by the Department, at least 37 calendar days prior to the anticipated dates of construction.

b) The registration shall include the following:

- 1) Name and address of the owner and operator of the livestock waste handling facility;
- 2) Location of the livestock waste handling facility;
- 3) General description of the livestock waste handling facility;
- 4) Type and number of animal units of livestock served by the livestock waste handling facility;
- 5) Specific location information noted on a facility site map or livestock waste handling facility plot plan:
 - A) The location and distance to the nearest private or public potable well;
 - B) The location and distance to the nearest stream;
 - C) The location and distance to the nearest abandoned or plugged well, drainage well, or injection well located within 1,000 feet of the proposed facility; and
 - D) The location of any subsurface drainage lines within 100 feet of the livestock waste handling facility;

6) Anticipated beginning and ending dates of construction [510 ILCS 77/11(c)];

7) Results of a site investigation conducted in accordance with Subpart C of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. A livestock waste handling facility owner may rely on guidance from the local soil and water conservation district, the Natural Resources Conservation Service of the United States Department of Agriculture, or the University of Illinois Cooperative Extension Service for soil type and associated information. [510 ILCS 77/13(c)];

8) A certification statement from the owner or operator on a form

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provided by the Department. The statement, accompanied by supporting justification and data from a Licensed Professional Engineer or Licensed Service Professional Geologist or a representative of the Natural Resources Conservation Service of the United States Department of Agriculture designated to perform such functions, shall certify that the site investigation meets all the applicable requirements of subsection (b)(7) of this Section and Subpart C of 35 Ill. Adm. Code 506, and whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area; and

9) Construction plan of the waste handling structure with design specifications of the structure noted as prepared by or for the owner or operator in accordance with the requirements contained in Subpart C of 35 Ill. Adm. Code 506, including a livestock waste handling facility plot plan with dimensions and elevations. [510 ILCS 77/11(c)]

c) The Department shall, within 15 calendar days after receipt of the registration form, notify the person submitting the form that the registration is complete or that clarification information is needed. [510 ILCS 77/11(c)] No later than 15 calendar days after receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification is needed.

d) When the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new livestock waste handling facility is or will be in compliance with the requirements of the Act, and the owner, operator, or certified manager and operator has received the Department's notice that the setbacks and all applicable requirements of the Act have been met. [510 ILCS 77/12(c)] If no informational meeting is held, the Department shall, within 15 calendar days following the end of the period for the county board to request an informational meeting, notify the owner or operator that construction may begin or that clarification is needed. [510 ILCS 77/12.1(b)]

Section 900.505 Inspections

a) The Department shall inspect the construction site prior to construction, during construction, and within 10 business days following receipt of the certification of compliance, pursuant to Section 900.506 of this Subpart, to determine compliance with the construction standards and this Subpart. [510 ILCS 77/13(g)]

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- b) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator, or certified livestock manager.
- c) The Department shall require modification or change when necessary to bring the construction into compliance with the standards as set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(h)]
- d) The person making the inspection shall discuss with the owner, operator, or certified livestock manager an evaluation of the livestock waste handling facility construction and shall provide on-site written recommendations to the owner, operator, or certified livestock manager of what modifications or changes are necessary or inform the owner, operator, or certified livestock manager that the facility meets the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. On the day of the inspection, the person making the inspection shall give the owner, operator, or certified livestock manager a written report of findings based on the inspection together with an explanation of remedial measures necessary to enable the livestock waste handling facility to meet the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. The Department shall, within 5 business days after the date of inspection, send an official written notice to the owner or operator of the livestock waste handling facility by certified mail, return receipt requested, indicating that the facility meets the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506 or identifying the remedial measures necessary to enable the livestock waste handling facility to meet the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. The owner or operator shall, within 10 business days after receipt of an official written notice of deficiencies, contact the Department to develop the principles of an agreement of compliance. The owner or operator and the Department shall enter into an agreement of compliance setting forth the specific changes to be made to bring the construction into compliance with the standards required under this Subpart and Subpart C of 35 Ill. Adm. Code 506. If an agreement of compliance cannot be achieved, the Department shall issue a compliance order to the owner or operator outlining the specific changes to be made to bring the construction into compliance with the standards required under this Subpart and Subpart C of 35 Ill. Adm. Code 506. The owner or operator can request an administrative hearing to contest the provisions of the Department's compliance order. [510 ILCS 77/13(h)]
- e) If any owner or operator operates in violation of an agreement of compliance, the Department shall seek an injunction in circuit court to prohibit the operation of the facility until construction and certification of the livestock waste handling facility are in compliance with the provisions of this Subpart and Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(j)]

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Section 900.506 Certification of Compliance

- a) The owner or operator of a livestock management facility or livestock waste handling facility constructed pursuant to the requirements of this Subpart shall send, by certified mail or in person, to the Department a certification of compliance form provided by the Department together with copies of verification documents upon completion of construction. Such verification documents shall include photographic records of excavation and site preparation including any soil compaction, footing preparation and construction, concrete forming including steel reinforcement, construction joints during construction, walls and floors after form removal, installation of perimeter drains if needed, and any other items deemed necessary by the owner or operator, engineer, or construction personnel. For structures constructed of concrete, a signed statement from the concrete supplier indicating the quality of the concrete shall be included. In the case of structures constructed with the design standards used by the Natural Resources Conservation Service of the United States Department of Agriculture, copies of the design standards and a statement of verification signed by a representative of the United States Department of Agriculture shall accompany the owner's or operator's certification of compliance. The certification shall state that the structure meets or exceeds the construction requirements as set forth in Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(f)]
- b) A \$250 filing fee shall accompany the certification of compliance statement. [510 ILCS 77/13(f)]

Section 900.507 Failure to Register or File Construction Plans

Any owner or operator who fails to file a registration form or construction plans and site investigation information with the Department prior to commencing construction, upon being discovered by the Department, shall be subject to an administrative hearing by the Department. The administrative law judge, upon determination of a failure to file the appropriate form, shall impose a civil administrative penalty in an amount no more than \$1,000 and shall enter an administrative order directing that the owner or operator file the appropriate form within 10 business days after receiving notice from the Department. If, after receiving the administrative law judge's order to file, the owner or operator fails to file the appropriate form with the Department, the Department shall impose a civil administrative penalty in an amount no less than \$1,000 and no more than \$2,500 and shall enter an administrative order prohibiting the operation of the facility until the owner or operator is in compliance with the Livestock Management Facilities Act [510 ILCS 77] and this Subpart. Penalties under this Section not paid within 60 days after notice from the Department shall be submitted to the Attorney General's office or an approved private collection agency. [510 ILCS 77/11(d)]

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Section 900.508 Removal from Service

- a) When any livestock management facility not using a livestock waste lagoon is removed from service, the accumulated livestock waste remaining within the facility shall be removed and applied to land at rates consistent with a waste management plan for the facility. In the case of a facility not required to develop and maintain a waste management plan, the livestock waste shall be applied at agronomic rates consistent with the Illinois Agronomy Handbook. Removal of the waste shall occur within 12 months after the date livestock production at the facility ceases. In addition, the owner or operator shall make provisions to prevent the accumulation of precipitation within the livestock waste handling facility. [510 ILCS 77/13(k)]
- b) Upon completion of the removal of manure, the owner or operator of the facility shall notify the Department that the facility is being removed from service and the remaining manure has been removed. The Department shall conduct an inspection of the livestock waste handling facility and inform the owner or operator in writing that the requirements imposed under this Section have been met or that additional actions are necessary. [510 ILCS 77/13(k)]

Section 900.509 Return to Service

A new facility constructed after May 21, 1996 that has been removed from service for a period of 2 or more years shall not be placed back into service prior to an inspection of the livestock waste handling facility and receipt of written approval by the Department. [510 ILCS 77/13(k)]

Section 900.510 Odor Control

- a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]
- b) Above-ground livestock waste holding structures must be operated using odor control management guidelines based on scientific per review accepted by the Department and determined to be economically feasible to the specific operation. [510 ILCS 77/25(c)] Such odor control methods may include, but are not limited to, biocovers and synthetic covers for gas capture.
- c) Upon the occurrence of a violation of this Section, the following procedures shall be followed:
 - 1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt

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- 2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding \$1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.
 - 3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.
 - 4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]
- Section 900.511 Perimeter Drainage Tubing Sampling, Analysis and Reporting Procedures**

- a) For non-lagoon livestock waste handling facilities required to install and sample perimeter drainage tubing pursuant to 35 Ill. Adm. Code 506, the requirements of this Section shall be met.
 - 1) The owner or operator of a livestock waste handling facility shall sample the liquid from the monitoring port prior to the livestock waste handling facility being placed into service and at least quarterly thereafter, if any liquid is available. The samples shall be analyzed for the following items: nitrate-nitrogen, phosphate-phosphorus, chloride, sulfate and ammonia-nitrogen.
- 2) Analytical results as determined in subsection (a)(1) of this Section shall be submitted to the Department within 30 days after sample collection and shall include a discussion relative to the significance of the results. Such discussion of significance shall include:
 - A) A comparison of the results to the initial sampling made prior to the livestock waste handling facility being placed in service; and
 - B) A description of any proposed response action necessary to mitigate potential impacts to groundwater.
- 3) The Department shall review the submittal provided pursuant to subsection (a)(2) of this Section, evaluate the proposed response action, and provide a time frame for the correction of any identified deficiencies. As a result of the evaluation, the Department may approve or modify the monitoring program or response action including, but not limited to, the following:

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- A) Increased the monitoring port sampling frequency;
- B) Decreased the sampling frequency if, after four consecutive quarters, no detections are identified;
- C) Add or delete items from the list of samples analytes provided in subsection (a)(1) of this Section, including bacteriological testing; or
- D) require changes to the design, construction or operation of the livestock waste handling facility or changes in the operation of the livestock management facility that shall be implemented by the owner or operator within the time frame established by the Department.
- b) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste handling facility as the requirements of this Part.

SUBPART F: LAGOON LIVESTOCK WASTE HANDLING FACILITIES

Section 900.601 Applicability

- a) The applicability of this Subpart shall be as follows:
- 1) Sections 900.602 through 900.606 and Section 900.611 of this Subpart apply to any new or modified lagoon, the design of which has not been approved by the Department prior to January 1, 2001;
 - 2) Section 900.607 of this Subpart applies to any livestock waste lagoon that services 1,000 or more animal units and is required to be registered under the Livestock Management Facilities Act;
 - 3) Section 900.608 of this Subpart applies to any livestock waste lagoon;
 - 4) Section 900.609 of this Subpart applies to any livestock waste lagoon constructed after June 1, 1998; and
 - 5) Section 900.610 of this Subpart applies to any livestock waste lagoon required to be registered under the Livestock Management Facilities Act.
- b) A lagoon registered and certified pursuant to the emergency rules adopted by the Illinois Pollution Control Board in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996, the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, and the rules adopted in R97-15(A) at 21 Ill. Reg. 6851, effective May 20, 1997, shall be considered as registered and certified pursuant to this Subpart.
- c) For the purposes of this Subpart the number of animal units at a livestock management facility is the maximum design capacity of the livestock management facility.

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Section 900.602 Lagoon Siting Restrictions and Additional Construction Requirements

- a) New or modified earthen livestock waste lagoons constructed after January 1, 2001 shall be subject to additional construction requirements and siting prohibitions as provided in this Section.
- 1) No new or modified earthen livestock waste lagoon may be constructed within the floodway of a 100-year floodplain. A new or modified earthen livestock waste lagoon may be constructed within the portion of a 100-year floodplain that is within the flood fringe and outside the floodway provided that the facility is designed and constructed so that livestock waste is not readily removed during flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5], Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). The delineation of floodplains, floodways, and flood fringes shall be in compliance with the National Flood Insurance Program. [510 ILCS 77/15(a-5)(1)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.
 - 2) A new or modified earthen livestock waste lagoon constructed in a karst area shall be designed to prevent seepage of the stored material to groundwater. Owners or operators of proposed facilities shall consult with the local soil and water conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. Notwithstanding the other provisions of this subsection (a), after July 13, 1999, no earthen livestock waste lagoon may be constructed within 400 feet of any natural depression in a karst area formed as a result of subsurface removal of soil or rock materials that has caused the formation of a collapse feature that exhibits internal drainage. For the purposes of this subsection (a), the existence of such natural depression in a karst area shall be indicated by the uppermost closed depression contour lines on a USGS 7 1/2 minute quadrangle topographic map or as determined by Department field investigation in a karst area. [510 ILCS 77/15(a-5)(2)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.
 - b) Notwithstanding any other requirement of this Subpart, every earthen livestock waste lagoon constructed after June 1, 1998 shall include the construction of a secondary berm, filter strip, grass waterway, or terrace, or any combination of those, outside the perimeter of the primary berm if an engineer licensed under the Professional Engineering Practice Act of 1989 and retained by the registrant determines, with the concurrence of the Department, that construction of such a secondary berm or other feature or features is necessary in

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order to ensure against a release of livestock waste from the lagoon that encroaches or is reasonably expected to encroach upon land other than the land occupied by the livestock waste handling facility of which the lagoon is a part or that enters or is reasonably expected to enter the waters of this State. [510 ILCS 77/15(a)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.

Section 900.603 Registration

- a) Prior to new construction or modification of any earthen livestock waste lagoon on or after January 1, 2001, such earthen livestock waste lagoon shall be registered by the owner or operator with the Department on a form provided by the Department in accordance with the requirements of this Section. Lagoons constructed prior to October 31, 1996 may register with the Department at no charge. [510 ILCS 77/15(b)] A completed registration shall be filed with the Department at least 37 days prior to the anticipated dates of construction. [510 ILCS 77/11(c)]
 - b) The registration form, accompanied by a \$250 fee, shall include the following:
 - 1) Names and addresses of the owner and operator who are responsible for the livestock waste lagoon;
 - 2) General location of lagoon;
 - 3) Results of a site investigation conducted in accordance with Subpart B of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area;
 - 4) Design construction plans and specifications prepared in accordance with the requirements contained in Subpart B of 35 Ill. Adm. Code 506 (including a lagoon plot plan with dimensions and elevations);
 - 5) Specific location information (noted on a facility site map or the lagoon plot plan):
 - A) The location and distance to the nearest private or public potable well;
 - B) The location and distance to the closest occupied private residence (other than any occupied by the owner or operator);
 - C) The location and distance to the nearest stream;
 - D) The location and distance to the nearest populated area;
 - E) The location and distance to the nearest abandoned or plugged well, drainage well or injection well located within 1,000 feet of the proposed facility; and
 - F) The location of any subsurface drainage lines within 100

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- feet of the lagoon;
- 6) Anticipated beginning and ending dates of lagoon construction;
- 7) Type of livestock and number of animal units;
- 8) A certification by the supervising Licensed Professional Engineer or Licensed Professional Geologist, accompanied by supporting justification and data, certifying that the site investigation meets all the applicable requirements of this Subpart and Subpart B of 35 Ill. Adm. Code 506, whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area; and
- 9) Where applicable, a copy of the synthetic liner manufacturer's compatibility statement and liner maintenance guidelines. [510 ILCS 77/15(b)]
- c) The Department, upon receipt of a livestock waste lagoon registration form, shall review the form to determine that all required information has been provided. The person filing the registration shall be notified within 15 working days after receipt by the Department that registration is complete or that clarification information is needed. No later than 10 working days after the receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification information is needed. [510 ILCS 77/15(b)]
- d) Construction shall not begin until 30 days after submittal of a registration form by certified mail to the Department unless otherwise restricted by subsection (a) of this Section. [510 ILCS 77/15(b)] In addition, when the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new or modified livestock waste handling facility is or will be in compliance with the requirements of the Act, and the owner, operator, or certified manager and operator has received the Department's notice that the setbacks and all applicable requirements of the Act have been met. [510 ILCS 77/12(c)] If no informational meeting is held, the Department shall, within 15 calendar days following the end of the period for the county board to request an informational meeting, notify the owner or operator that construction may begin or that clarification is needed. [510 ILCS 77/12.1(b)]

Section 900.604 Lagoon Construction, Registration, and Certification Inspections

- a) The Department shall inspect an earthen livestock waste lagoon during pre-construction, construction, and post-construction and shall

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require modifications when necessary to ensure the project will be in compliance with the requirements of this Part and 35 Ill. Adm. Code 506. [510 ILCS 77/15(b)]

- b) The Department may, as a condition of the issuance of a livestock waste lagoon registration, conduct periodic site inspections of a livestock waste lagoon to assess its degree of compliance with the requirements of the Livestock Management Facilities Act [510 ILCS 77] and the requirements of this Part.
- c) The Department shall conduct a certification inspection within 10 business days after receipt of the certification of compliance from the lagoon owner or operator pursuant to Section 900.605(c) of this Subpart.
- d) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator or certified livestock manager. [510 ILCS 77/15(b)]

Section 900.605 Certification of Construction

- a) Upon completion of the liner construction or installation, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of Subpart B of 35 Ill. Adm. Code 506. Such certification shall be submitted to the Department prior to placing the lagoon in service and shall include supporting data and justification.
- b) Upon completion of the construction or modification, but prior to placing the lagoon in service, the owner or operator of the livestock waste lagoon shall certify on a form provided by the Department that the lagoon has been constructed or modified in accordance with the standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and the requirements of this Part and that the information provided on the registration form and other supporting documents as required by this Part is correct. The certification notice to the Department shall include a certification statement and signature. [510 ILCS 77/15(b)]
- c) Within 10 business days after receipt of the certification of compliance, the Department shall inspect the lagoon site. The Department shall, within 5 business days after the date of inspection, send an official written notice by certified mail, return receipt requested, to the owner or operator of the facility indicating that all the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and this Subpart have been met or that deficiencies exist that must be corrected prior to the completion of the lagoon registration process and the placement of the lagoon into service. [510 ILCS 77/15(b)]
- d) The owner or operator of the lagoon may proceed to place the lagoon in service after receipt of the Department's notice that all the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and this Subpart have been met. [510 ILCS 77/15(b)]

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Section 900.606 Failure to Register or Construct in Accordance with Standards

- a) The owner or operator of any earthen livestock waste lagoon subject to registration that has not been registered or constructed in accordance with standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506 shall, upon being identified as such by the Department, be given written notice by the Department to register and certify the lagoon within 10 working days after receipt of the notice. The Department may inspect such lagoon and require compliance in accordance with subsections (a) and (b) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506. If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice, the Department may issue a cease and desist order until such time as compliance is obtained with the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506. Failure to construct the lagoon in accordance with the construction plan and Department recommendations is a business offense punishable by a fine of not more than \$5,000. [510 ILCS 77/15(f)]
- b) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice addressing violations occurring during lagoon construction, a cease and desist order to stop construction may be issued by the Department. Changes shall be made to the lagoon by the owner or operator to ensure construction according to the provisions of the Livestock Management Facilities Act [510 ILCS 77], this Part, and 35 Ill. Adm. Code 506. The cease and desist order shall be canceled by the Department upon submission of the registration materials by the lagoon owner or operator to the Department, and after the Department's review of the construction plans and specifications and lagoon registration materials, and after determination by the Department of compliance with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506.
- c) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice addressing violations which occur after completion of lagoon construction, an operational cease and desist order may be issued by the Department. Any necessary changes shall be made to the lagoon by the lagoon owner or operator to comply with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506. The operational cease and desist order shall be canceled by the Department after the Department determines compliance with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506.

Section 900.607 Lagoon Operational Inspections

- a) At least once each year on a random basis, the Department shall

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- inspect every earthen livestock waste lagoon that services 1,000 or more animal units and is required to be registered under the Act. The owner or operator of the lagoon or a certified livestock manager must be present during the inspection. If the owner, operator, or certified livestock manager is not present at the scheduled date, time, and place of the inspection, the inspection shall proceed in his or her absence. The person making the inspection shall conduct a visual inspection to determine only whether any of the following are present: burrow holes, trees or woody vegetation, proper freeboard, erosion, settling of the berm, bermtop maintenance, leaks, and seepage. The person making the inspection shall discuss with the owner, operator, or certified livestock manager an evaluation of the livestock waste lagoon's current condition and shall provide on-site written recommendations to the owner, operator, or certified livestock manager of what corrective actions are necessary or shall inform the owner, operator, or certified livestock manager that the lagoon meets the standards set forth in this subsection. [510 ILCS 77/16]
- b) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator, or certified livestock manager. [510 ILCS 77/16]
 - c) The Department shall send official written notice of any deficiencies to the owner or operator of the lagoon by certified mail, return receipt requested. The owner or operator and the Department shall enter into an agreement of compliance setting forth the specific action and timetable to correct the deficiencies. The person making the reinspection shall notify the Department of the results of the reinspection, and the Department shall take the appropriate action under this Section. If the Department's inspector finds a release or evidence of a release, the Department shall immediately report such information to the Agency. [510 ILCS 77/16]
 - d) The following penalties shall be assessed for violations of this Section:
 - 1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.
 - 2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding \$1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.
 - 3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order

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- directing that the owner or operator cease operation of the facility until the violation is corrected.
- 4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/16]

Section 900.608 Lagoon Closure

- a) When any livestock waste lagoon is removed from service, it shall be completely emptied. Appropriate closure procedures shall be followed as determined by the requirements of this Part. [510 ILCS 77/15(e)]
 - 1) In the event that any livestock waste lagoon is removed from service, the requirements contained in Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77/15(e)] shall be met. The owner or operator shall notify the Department in writing when a lagoon is removed from service. Within 60 days after removal of the lagoon from service, the owner or operator shall submit a lagoon closure plan to the Department for review and approval. If no lagoon closure plan is received by the Department within 60 days, the Department shall send the lagoon owner a notice of default.
 - 2) The lagoon closure plan shall provide for the following:
 - A) A location area map of the lagoon and surrounding area;
 - B) The sampling, analysis for total nitrogen, ammonium nitrogen, and phosphorus, and reporting of results of all remaining livestock waste, sludge and minimum six-inch thickness of soil from throughout the lagoon interior;
 - C) The removal of all remaining livestock waste including sludge, the removal of a minimum 6 inch thickness of soil from throughout the lagoon interior, and the application of these materials to crop land at agronomic rates as set forth in Subpart H of this Part or their otherwise proper disposal;
 - D) The removal of all associated appurtenances, including but not limited to transfer lines, ramps, pumping ports and other waste conveyance structures;
 - E) The proper management of any impounded precipitation in the remaining excavation if it is not immediately filled and the area immediately returned to its pre-construction condition;
 - F) The proper abandonment of any monitoring wells conducted pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120;
 - G) The restoration of the topography at the lagoon site to its pre-construction condition; and
 - H) A proposed time frame for the completion of the closure activities no greater than two years from the cessation of operation date unless the lagoon is maintained or serviced.

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- 3) The Department shall review and approve, reject, or request additional information relative to the lagoon closure plan.
- 4) *The Department may also grant a waiver to any of the closure requirements of this Section that will permit the lagoon to be used for an alternative purpose.* [510 ILCS 77/15(e)] Each request for a waiver shall contain a certification from a Licensed Professional Engineer or Licensed Professional Geologist, as relevant, that the grant of the waiver is at least as protective of the groundwater and surface water as the stated requirements. The Department shall notify the applicant in writing of its determination within 30 days after receipt of the request for a waiver. To grant the waiver, the Department must determine that the waiver is at least as protective as the stated requirements.
- 5) The owner or operator shall notify the Department prior to the commencement of closure activities to allow for an inspection by the Department during the closure process.
- 6) Upon completion of the lagoon closure activities as prescribed by the Department-approved closure plan, the owner or operator shall notify the Department. The Department shall conduct a site inspection and issue a written notification of closure completion or inform the owner or operator of any unresolved closure issues.
- b) A lagoon is considered removed from service when:
 - 1) The Department has ordered the lagoon removed from service under Section 900.720 of this Part;
 - 2) A tribunal of competent jurisdiction has ordered the lagoon closed or ordered the owner or operator to cease operations;
 - 3) The lagoon no longer receives livestock waste and the lagoon is not being serviced or maintained;
 - 4) The owner fails to extend the term for which evidence of financial responsibility is shown as required in Section 900.702(b) of this Part; or
 - 5) The owner or operator informs the Department in accordance with subsection (a)(1) of this Section that the lagoon has been removed from service.

Section 900.609 Odor Control

- a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]
- b) Every single-stage livestock waste lagoon constructed after June 1, 1998 shall comply with the following operational guidelines:
 - 1) In operation, the lagoon must be maintained at not less than the minimum design volume.

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- 2) *The livestock waste supply to the lagoon must be below the minimum design volume level.* [510 ILCS 77/25(b)]
 - c) Every livestock waste lagoon constructed or modified after June 1, 1998 shall be initially charged with water to at least 60% of the minimum design volume prior to the initial addition of waste. Upon the occurrence of a violation of this Section, the following procedures shall be followed:
 - 1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.
 - 2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding \$1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.
 - 3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.
 - 4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]
- Section 900.610 Ownership Transfer**
- Upon a change in ownership of a registered livestock waste lagoon, the new owner shall notify, in writing, the Department of the change within 30 working days after the closing of the transaction.* [510 ILCS 77/15(e)]

Section 900.611 Monitoring Well Sampling, Analysis and Reporting Procedures

- a) For lagoons required to install monitoring wells pursuant to 35 Ill. Adm. Code 506, the requirements of this Section shall be met.
- b) Prior to placing the lagoon in service, water level measurements shall be made at each monitoring well to establish the local groundwater gradient at the lagoon site.
- c) The owner or operator shall sample each monitoring well at least once prior to placing the lagoon in service and as least quarterly thereafter. Water table level elevation measurement shall be taken at each sampling event. The samples shall be collected and analyzed consistent with the methods specified in Section 900.104(a)(1) and

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(a)(5) of this Part for each of the following:

- 1) Nitrate-nitrogen;
 - 2) Phosphate-phosphorus;
 - 3) Chloride;
 - 4) Sulfate;
 - 5) Ammonia-nitrogen;
 - 6) *Escherichia coli* or fecal coliform; and
 - 7) Fecal Streptococcus.
- d) The Department may collect and analyze samples or split samples from monitoring wells installed pursuant to this Section at the Department's discretion. The Department shall provide notice to the owner or operator of the livestock waste lagoon of such activity and shall comply with reasonable animal health protection procedures as requested by the owner or operator. (510 ILCS 77/15(b))
- e) Analytical results as determined in subsection (c) of this Section shall be submitted to the Department within 30 days after sample collection and shall include a discussion relative to the significance of the results. Such discussion of significance shall include:
- 1) A comparison of the results to the initial sampling made prior to the lagoon being placed in service; and
 - 2) A description of any proposed response action necessary to mitigate potential impacts to groundwater.
- f) The Department shall review the submittal provided pursuant to subsection (e) of this Section, evaluate the proposed response action, and provide a time frame for the correction of any identified deficiencies. As a result of the evaluation, the Department may approve or modify the monitoring program or response action including, but not limited to, the following:
- 1) Increase or decrease the monitoring well sampling frequency;
 - 2) Add or delete items from the list of sample analytes; or
 - 3) require changes to the design, construction or operation of the lagoon or changes in the operation of the livestock management facility which shall be implemented by the owner or operator within the time frame established by the Department.
- g) The owner or operator of the livestock waste handling facility may, upon written request and with written approval from the Department, modify or exceed these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such modification shall be at least as protective of the groundwater, surface water, and the structural integrity of the livestock waste handling facility as the requirements of this Part.

SUBPART G: LAGOON FINANCIAL RESPONSIBILITY

Section 900.701 Scope, Applicability, and Definitions

- a) This Subpart provides procedures by which the owner of a new or modified livestock waste lagoon registered under the Livestock

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Management Facilities Act provides evidence of financial responsibility satisfying the requirements of Section 17 of the Livestock Management Facilities Act.

- b) Owners of lagoons must comply with the financial responsibility requirements of this Part either:
- 1) on or before June 1, 1999; or
 - 2) before the lagoon is placed in service.
- c) For the purposes of this Subpart, the following terms have the following meanings:
- 1) "Audited financial statement" means financial statements, including a balance sheet and notes to financial statements, prepared in conformity with generally accepted accounting principles following an examination conducted in accordance with generally accepted auditing standards that has attached the unqualified opinion of an independent certified public accountant licensed under Illinois law or an entity permitted to engage in the practice of public accounting under subsection (b)(3) of Section 14 of the Illinois Public Accounting Act [225 ILCS 450/14].
 - 2) "Financial institution" means:
 - A) An insurer providing commercial or private insurance to evidence financial responsibility for lagoon closure in accordance with Section 900.709 of this Part;
 - B) A guarantor providing a guarantee as evidence of financial responsibility for lagoon closure in accordance with Section 900.710 of this Part;
 - C) The issuer of a surety bond as evidence of financial responsibility for lagoon closure in accordance with Section 900.711 of this Part;
 - D) The issuer of a letter of credit as evidence of financial responsibility for lagoon closure in accordance with Section 900.712 of this Part; or
 - E) The livestock waste lagoon closure fund managed by the Illinois Farm Development Authority that evidences financial responsibility for lagoon closure in accordance with Section 900.714 of this Part.
 - 3) "Guarantor" means a person who assumes all or part of the obligations of a lagoon owner for closure of a lagoon in accordance with Section 900.710 of this Part. For purposes of this definition, the owner of the lagoon may be the guarantor provided adequate resources exist to guarantee the closure costs in accordance with Section 900.710 of this Part.
 - 4) "Level of surety" means the level, calculated in accordance with Section 900.703 of this Part, at which evidence of financial responsibility must be provided.
 - 5) "Surety instrument" means any of the devices listed in Section 900.702 of this Part by which a lagoon owner evidences financial responsibility for lagoon closure. Unless the context requires

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otherwise, "surety instrument" includes a combination of surety instruments.

Section 900.702 Mechanisms for Providing Evidence of Financial Responsibility

a) *Financial responsibility may be evidenced by any combination of the following:*

- 1) *Commercial or private insurance;*
- 2) *Guarantee;*
- 3) *Surety bond;*
- 4) *Letter of credit;*
- 5) *Certificate of deposit or designated savings account; or*
- 6) *Participation in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. [510 ILCS 77/17]*

b) The lagoon owner must provide continuous coverage from the time the lagoon is placed in service until such time as the owner is released from the financial responsibility requirements pursuant to Section 900.705(a) of this Part. The initial term of any surety instrument (other than a certificate of deposit or designated savings account) utilized to fulfill the requirements of this Part must be at least three years. At least two years prior to the expiration date of such instrument, the owner must provide the Department with proof that the term of coverage has been extended for at least one additional year.

c) Upon a change in the ownership of a livestock management facility or livestock waste handling facility involving a lagoon that is subject to the financial responsibility requirements of this Subpart, the new owner must establish and maintain evidence of financial responsibility at a level not less than the level required pursuant to this Subpart. The lagoon owner must ensure that the terms and conditions of the surety instruments listed in subsection (a) of this Section upon which the owner relies are legally valid, binding, and enforceable under State and federal law.

Section 900.703 Level of Surety

a) The level of surety is determined by the following formula:

$$\text{Level of Surety} = (V \times CF) + EC$$

where:

V = Volume of the lagoon as constructed or modified, in cubic feet, including the freeboard volume

CF = Cost factor determined pursuant to subsection (b) of this Section

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EC = Engineering contingency determined under subsection (c) of this Section

b) The cost factor is obtained from the following:

- 1) Through December 31, 2002, the cost factor is 10 cents per cubic foot of lagoon volume.
 - 2) On and after January 1, 2003 through December 31, 2007, the cost factor is 12 cents per cubic foot of lagoon volume.
 - 3) On and after January 1, 2008, the cost factor is 15 cents per cubic foot of lagoon volume.
- c) The engineering contingency is equal to 10% of $(V \times CF)$.

Section 900.704 Upgrading Surety Instrument

a) The owner of a lagoon must increase the total amount of surety in place so as to equal the level of surety as calculated within 90 days after:

- 1) a modification resulting in an increase in the volume of the lagoon; or
- 2) an increase in the cost factor under Section 900.703(b) of this Part.

b) If modification of a lagoon results in a decrease in volumetric capacity, the owner or operator may provide the Department with documentation of the reduction in volumetric capacity and request a recalculation of the level of surety. Within 90 days after a request by the owner or operator under this subsection (b), the Department must either:

- 1) release any surety amount above the level of surety as recalculated based upon the owner's documentation of reduction of volumetric capacity; or
- 2) conduct an inspection and determine the amount by which volumetric capacity has been decreased.

c) If the Department conducts an inspection under subsection (b), then the Department must release any surety amount above the level of surety as recalculated based upon the results of the inspection.

Section 900.705 Release of Lagoon Owner and Financial Institution

a) The Department must release a lagoon owner from the requirements of this Subpart when:

- 1) The lagoon has been properly closed and a notification of closure completion pursuant to Section 900.608 of this Part has been issued to the lagoon owner by the Department; or
- 2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose; or
- 3) Title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 900.702(c) of this Part.

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- b) The Department must release a financial institution when:
- 1) A lagoon owner offers an authorized alternative surety that meets the requirements of Section 900.707(c) of this Part; or
 - 2) The Department releases the lagoon owner from the requirements of this Subpart under subsection (a) of this Section.
- c) The Department must notify the lagoon owner and financial institution in writing within 60 days after a release under this Section. If a release is based upon proper closure of a lagoon, notification under this subsection (c) should occur at the same time as notice of proper closure under Section 900.608(a)(5).

Section 900.706 Financial Responsibility Proceeds

- a) A financial institution issuing a surety instrument evidencing financial responsibility for closure of a livestock waste lagoon becomes liable on the surety instrument when a lagoon is removed from service and:
- 1) The owner fails to submit the lagoon closure plan required by Section 900.608 of this Part and:
 - A) cannot be found; or
 - B) fails to cure such failure within 30 days after notice from the Department;
 - 2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or
 - 3) The owner fails to comply with an approved lagoon closure plan and:
 - A) cannot be found; or
 - B) fails to cure such noncompliance within 30 days after notice from the Department.
- b) The Department must provide notice to the financial institution providing surety for the lagoon:
- 1) when it determines that the lagoon has been removed from service; and
 - 2) when it determines that one of the criteria for liability set forth in subsection (a) of this Section has been met.
- c) Within 30 days after notice of liability from the Department, the financial institution must either assume liability for closure of the lagoon and notify the Department of its election to assume liability, or deposit the amount for which it is liable in connection with the lagoon into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon.
- 1) If the financial institution assumes liability for closure of the lagoon, it must submit a lagoon closure plan that meets the requirements of Section 900.608 of this Part within 60 days after notifying the Department of its election. Notwithstanding the financial institution's assumption of liability for closure of

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the lagoon, the Department may require the financial institution to deposit funds up to the amount for which the financial institution is liable under the surety instrument into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon if:

- A) The financial institution does not submit the lagoon closure plan as required and fails to cure such omission within 30 days after notice from the Department;
 - B) The financial institution fails to obtain Department approval of a lagoon closure plan within eight months after the date that it elects to assume liability for closure of the lagoon, unless the lagoon is maintained or serviced; or
 - C) The financial institution fails to comply with an approved lagoon closure plan and fails to cure such noncompliance within 30 days after notice from the Department.
- 2) A financial institution that assumes liability for closure of a lagoon under this Section remains liable for the full amount of the surety instrument until the Department issues written notification of completion of closure in accordance with Section 900.608 of this Part, notwithstanding the expiration of the instrument utilized to evidence financial responsibility by the owner.
- 3) Any amounts that a financial institution may expend for service or maintenance of the lagoon pending closure or partial closure of the lagoon do not reduce the amount of the financial institution's obligation under this subsection (c).
 - 4) If the financial institution elects, or is required under subsection (c)(1) of this Section, to deposit the funds required by the Department into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon, then the Department shall close the lagoon within the time frame established under Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77/15(e)] or as soon as practicable, to the extent possible utilizing the funds deposited by the financial institution. The Department may use any interest earned on deposited funds to close the lagoon. The Department must release any funds remaining in the account, including any remaining interest earned on funds in the account, to the financial institution upon completion of closure.
 - d) The Department may sue in any court of competent jurisdiction to enforce its rights under any surety instrument.

Section 900.707 Use of Multiple Surety Instruments

- a) The lagoon owner may use any combination of the surety instruments listed in Section 17 of the Livestock Management Facilities Act [510 ILCS 77/17] and this Subpart to evidence the required level of financial responsibility.

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- b) A lagoon owner is not limited to maintaining financial responsibility with the original surety instrument or combination of instruments. The owner must notify the Department before making any change in surety instruments.
- c) If a lagoon owner makes any change in surety instruments, the lagoon owner must maintain the total financial responsibility for the lagoon at a level not less (without counting the amounts to be released) than the level of surety.
- d) A replacement surety instrument or instruments must provide evidence of financial responsibility for a period at least equal to the existing instrument or instruments. This provision does not relieve an owner of the obligation under Section 900.702(b) of this Part to provide proof at least two years prior to expiration of a surety instrument that the term for which financial responsibility has been demonstrated has been extended for at least an additional year.

Section 900.708 Use of a Single Surety Instrument for Multiple Lagoons

- a) An owner may use a surety instrument specified in this Subpart to provide evidence of financial responsibility for more than one lagoon.
- b) Whenever a single surety instrument is used for multiple lagoons, the owner must submit an itemization to the Department identifying all lagoons covered by the surety instrument and the amount allocated to each lagoon.
- c) The amount of funds available through the surety instrument must be no less than the sum of funds that would be available if a separate surety instrument had been established and maintained for each lagoon.
- d) In directing funds available through a single surety instrument for the closure of any single lagoon covered by that surety instrument, the Department shall direct only the amount of funds designated for that lagoon, unless the owner agrees to allow the Department to use additional funds available under that surety instrument. Such an agreement does not affect the owner's obligation to provide evidence of financial responsibility up to the level of surety for all other lagoons.

Section 900.709 Commercial or Private Insurance

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining closure insurance that conforms to the requirements of this Subpart and submitting an executed duplicate original of such insurance policy to the Department.
- b) The insurer must be licensed to transact the business of insurance by the Illinois Department of Insurance pursuant to the Illinois Insurance Code [215 ILCS 5].
- c) The policy must be on forms approved by the Illinois Department of Insurance.

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- d) The closure insurance policy must guarantee that funds will be available to close the lagoon. The policy must also guarantee that, upon a notice of liability from the Department, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, in accordance with Section 900.706(c) of this Part.
- e) The policy must provide that the insurer may not cancel or terminate the policy.

Section 900.710 Guaratee

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a guaratee that conforms to the requirements of this Subpart.
- b) When a guaratee is initially established for a facility, a guarantor shall submit a financial statement to the Department from the guarantor's most recent fiscal year. Thereafter on an annual basis, the guarantor shall submit a financial statement to the Department within 90 days after the close of the guarantor's fiscal year.
- c) The financial statement required pursuant to subsection (b) of this Section shall be provided to the Department in one of the following formats:
 - 1) An audited financial statement; or
 - 2) On a form provided by the Department, prepared by an accountant not employed by or possessing a financial interest in the livestock facility, and notarized.
- d) The Department will review the financial statement submitted pursuant to subsection (c) of this Section, determine if adequate resources exist to guarantee the closure costs, and notify the lagoon owner of acceptance or denial within 30 days after receipt of the financial statement by the Department. The Department shall determine that adequate resources exist to guarantee the closure costs when an equity to level of surety ratio of 1.5 or greater is demonstrated through the financial statement.
- e) The guarantor shall guarantee to pay the amount specified in the guaratee upon notice from the Department as provided in Section 900.706(c) of this Part.

Section 900.711 Surety Bond

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a surety bond that conforms to the requirements of this Subpart and submitting the bond to the Department.
- b) The surety company issuing the bond must be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code [215 ILCS 5] and approved by the U.S. Department of the Treasury as an acceptable surety. Acceptable sureties are listed in Circular 570

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- from the U.S. Department of the Treasury.
- c) The bond must guarantee that the lagoon owner will provide lagoon closure and content removal in accordance with Section 900.608 of this Part.
- d) The surety bond must be in substantially the form specified in Appendix A, Illustration A of this Part.

Section 900.712 Letter of Credit

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subpart and submitting the letter to the Department.
- b) The issuing institution must be an entity that has the authority to issue letters of credit and:
- 1) whose letter of credit operations are regulated by the Illinois Commissioner of Banks and Real Estate; or
 - 2) whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) The letter of credit made out to the Department must be accompanied by a letter from the lagoon owner referring to the letter of credit by number, issuing institution, and date and providing the following information: name and address of the lagoon site and the amount of funds assured for closure of the lagoon by the letter of credit.
- d) The letter of credit must be substantially in the form specified in Appendix A, Illustration B of this Part.

Section 900.713 Certificate of Deposit or Designated Savings Account

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by designating certificates of deposit or savings accounts for use as financial responsibility.
- b) The issuing or depository financial institution must be an entity whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) The Department may draw on the certificates of deposit or savings accounts to pay the costs of closing a lagoon in accordance with this subsection. The Department shall close a lagoon when the lagoon is removed from service and:
- 1) The owner fails to submit the lagoon closure plan required by Section 900.608 of this Part and:
 - A) cannot be found; or
 - B) fails to cure such failure within 30 days after notice from the Department;
 - 2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or

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- served; or
- 3) The owner fails to comply with an approved lagoon closure plan and:
- A) cannot be found; or
 - B) fails to cure such noncompliance within 30 days after notice from the Department.
- d) The Director of the Department shall be listed as trustee of the certificates of deposit or savings accounts for the lagoon owner.
- e) At maturity of any certificate of deposit designated as financial responsibility for lagoon closure, the certificate shall be renewed or the proceeds deposited into a designated savings account that meets the requirements of this Section.
- f) The Department shall relinquish trusteeship of the certificates of deposit or savings accounts when:
- 1) The lagoon has been properly closed and a notification of closure completeness pursuant to Section 900.608 of this Part has been issued to the lagoon owner by the Department;
 - 2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose pursuant to Section 900.608 of this Part;
 - 3) Title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 900.702(c) of this Part; or
 - 4) A lagoon owner offers an authorized alternative surety which meets the requirements of Section 900.707(c) of this Part.

Section 900.714 Participation in a Livestock Waste Lagoon Closure Fund

- a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by participating in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. An owner electing to provide evidence of financial responsibility under this Section must submit a certificate of participation in such a lagoon closure fund to the Department.
- b) The certificate of participation submitted pursuant to subsection (a) of this Section must include:
- 1) the level of surety for the lagoon;
 - 2) the dollar amount of coverage provided by the lagoon closure fund;
 - 3) the dates for which coverage is provided; and
 - 4) a financial statement of the lagoon closure fund establishing the lagoon closure fund's compliance with the requirements of this Section.
- c) The lagoon closure fund must maintain minimum reserves equal to the greater of:
- 1) the level of surety of the largest lagoon covered by the lagoon closure fund; or
 - 2) twice the average level of surety of lagoons covered by the fund.

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- d) The lagoon closure fund must guarantee that funds will be available to close the lagoon. Upon a notice of liability from the Department, the lagoon closure fund must comply with the requirements of Section 900.706(c) of this Part.
- e) If the reserves of the lagoon closure fund are reduced to less than the minimum amount required under subsection (b) due to expenditures of funds in order to comply with Section 900.706(c), then within 120 days after such reduction the lagoon closure fund must demonstrate to the Department that the minimum reserve level has been restored.
- f) The lagoon closure fund may not cancel or terminate coverage prior to the date set forth in the certification pursuant to subsection (b)(3) of this Section.

Section 900.720 Penalties

The Department may order a lagoon removed from service if the owner fails to provide evidence of financial responsibility to the Department or fails to maintain financial responsibility in the amount required pursuant to Section 900.703 of this Subpart.

SUBPART H: WASTE MANAGEMENT PLAN**Section 900.801 Purpose**

Livestock waste management plans shall be prepared by livestock management facility owners or operators to provide for adequate land area for the proper application of livestock waste at rates not to exceed the agronomic nitrogen demand of the crops to be grown when averaged over a 5-year period or at the phosphorus rate, depending on soil test results. [510 ILCS 77/20(f)(4)]

Section 900.802 Scope and Applicability

- a) A waste management plan shall be prepared according to the requirements contained in Section 20 of the Livestock Management Facilities Act [510 ILCS 77/20] and in this Subpart. The application of livestock waste to the land is an acceptable, recommended, and established practice in Illinois. However, when livestock waste is not applied in a responsible manner, it may create pollutional problems. It is considered acceptable to prepare and implement a waste management plan based on a nitrogen rate, unless otherwise restricted by Section 20 of the Livestock Management Facilities Act and this Part. [510 ILCS 77/20(f)]
- b) The livestock management facility owner or operator at a facility of less than 1,000 animal units shall not be required to prepare and maintain a waste management plan. [510 ILCS 77/20(b)]
- c) The livestock management facility owner or operator at a facility of 1,000 or greater animal units but less than 5,000 animal units shall prepare, maintain and implement a waste management plan and comply

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with the following:

- 1) For facilities which commence operations or reach or exceed 1,000 animal units after January 1, 2001, the owner or operator shall prepare, maintain, and implement a waste management plan within 60 working days after commencing operations or exceeding 1,000 animal units;
 - 2) Prior to the expiration of the waste management plan preparation period, the owner or operator shall submit to the Department a form certifying that a waste management plan has been prepared. The form shall list the animal unit capacity of the facility and the location of the plan;
 - 3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours; and
 - 4) Notwithstanding the provisions of this subsection (c), a livestock management facility subject to this subsection (c) may be operated on an interim basis but not to exceed 6 months after the effective date of this Part to allow for the owner or operator of the facility to develop a waste management plan. [510 ILCS 77/20(c)]
- d) The livestock management facility owner or operator at a facility of 5,000 or greater animal units shall prepare, maintain, implement, and submit to the Department the waste management plan for approval [510 ILCS 77/20(d)] and comply with the following:
- 1) For facilities which commence operations after January 1, 2001, the owner or operator shall submit a waste management plan to the Department. The facility shall not commence operation before the Department approves the plan;
 - 2) For existing facilities that reach or exceed 5,000 animal units through expansion, the owner or operator shall submit for approval by the Department a waste management plan within 60 working days after reaching or exceeding 5,000 animal units; and
 - 3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours.
- e) The owner or operator of multiple livestock management facilities under common facility ownership where the cumulative animal units of the facilities are equal to or greater than the animal unit numbers provided for in subsection (c) of this Section shall prepare and keep on file at each facility a waste management plan in accordance with the requirements of subsection (c) of this Section. The owner or operator of multiple livestock management facilities that are under common facility ownership where the cumulative animal units of the facilities are equal to or greater than the animal unit numbers provided for in subsection (d) of this section shall prepare and file with the Department a waste management plan in accordance with the

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provisions of subsection (d) of this Section. Cumulative animal units shall be determined by combining the animal units of multiple livestock management facilities under the common facility ownership based upon the maximum design capacity of each facility. For the purposes of this subsection, "under common facility ownership" means the same person or persons own, directly or indirectly, through majority owned business entities at least 51% of any person or persons (as defined by Section 10-55 of the Livestock Management Facilities Act [510 ILCS 77/10.55]) that own or operate the livestock management facility or livestock waste handling facility located in the State of Illinois. [510 ILCS 77/20(d-5)] A separate waste management plan shall be developed for each livestock waste handling facility.

f) Waste management plans prepared pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996, the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, and the rules adopted in R97-15(A) at 21 Ill. Reg. 5851, effective May 20, 1997 shall be revised as follows:

1) The owner or operator of an existing facility of 1,000 or greater animal units but less than 5,000 animal units shall prepare a new or revised waste management plan that complies with the requirements of this Part and submit a waste management plan certification form to the Department pursuant to Section 900.802(c)(2) of this Subpart within 60 days after January 1, 2001.

2) The owner or operator of an existing facility of 5,000 or greater animal units shall prepare a new or revised waste management plan that complies with the requirements of this Part for submittal to and review by the Department within 60 days after January 1, 2001.

g) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility shall be determined as the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

Section 900.803 Waste Management Plan Contents

The livestock waste management plan shall contain the following items:

- a) Name, address, and phone number of the owners of the livestock facility;
- b) Name, address, and phone number of the managers or operators if different than the owners;
- c) Address, phone number, and plat location of the facilities;
- d) Type of waste storage for the facilities;
- e) Species, general size, number of animals, and number of animal units at the facilities;
- f) Aerial photos or maps depicting fields available and intended for livestock waste applications with available acreage listed and indicating residences, non-farm businesses, common places of assembly,

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streams, wells, waterways, lakes, ponds, rivers, drainage ditches, other water sources, and areas restricted for application by this Subpart;

g) For application fields not owned or rented, copies of waste application agreements between the owner or operator of the livestock facilities and the owner of the land where livestock waste will be applied;

h) Cropping schedule for each field for the past year, anticipated crops for the current year, and anticipated crops for the next two years after the current year;

i) Targeted crop yield goal for each crop in each field;

j) An estimate of the nutrient value of the waste [510 ILCS 77/20(f)(3)];

k) Livestock waste application methods;

l) Results of the Bray Pi or Mehlich test for soil phosphorus reported in pounds of elemental phosphorus per acre [510 ILCS 77/20(f)(3.5)];

m) Calculations showing the following:

1) An estimate of the volume of livestock waste to be disposed of annually [510 ILCS 77/20(f)(1)];

2) Nitrogen loss due to the method of storage, if applicable;

3) Amount of nitrogen available for application;

4) Nitrogen loss due to the method of application;

5) Amount of plant-available nitrogen including first-year mineralization of organic nitrogen;

6) Amount of nitrogen required by each crop in each field based on targeted crop yield goal;

7) Nitrogen credits from previous crops, from other sources of fertilizer applied for the growing season, and from any manure applications during the previous three years for each application field;

8) Livestock waste application rate based on nitrogen for each application field; and

9) Land area required for application;

n) A listing of fields and the planned livestock waste application amounts for each field;

o) A provision that livestock waste applied within 1/4 mile of any residence not part of the facility shall be injected or incorporated on the day of application. However, livestock management facilities and livestock waste handling facilities that have irrigation systems in operation prior to May 21, 1996, or existing facilities applying waste on frozen ground, are not subject to the provisions of this subsection (o) [510 ILCS 77/20(f)(5)];

p) A provision that livestock waste may not be applied within 200 feet of surface water unless the water is upgrade or there is adequate diking and waste will not be applied within 150 feet of potable water supply wells [510 ILCS 77/20(f)(6)];

q) A provision that livestock waste may not be applied in a 10-year flood plain unless the injection or incorporation method of application is used [510 ILCS 77/20(f)(7)];

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- r) A provision that livestock waste may not be applied in waterways. [510 ILCS 77/20(f)(8)] For the purposes of this Part, a grassed area serving as a waterway may receive livestock waste through an irrigation system if there is no runoff, the distance from applied livestock waste to surface water is greater than 200 feet, the distance from applied livestock waste to potable water supply wells is greater than 150 feet; the distance from applied livestock waste to a non-potable well, an abandoned or plugged well, a drainage well, or an injection well is greater than 100 feet; and precipitation is not expected within 24 hours;
- s) A provision that if waste is spread on frozen or snow-covered land, the application will be limited to land areas on which:
- 1) land slopes are 5% or less; or
 - 2) adequate erosion control practices exist [510 ILCS 77/20(f)(9)];
- t) For livestock facilities utilizing an earthen lagoon or other earthen waste storage structure, a provision that the owner, operator, or certified livestock manager shall inspect all bermtops, exterior berm sides, and non-submerged interior berm sides for evidence of erosion, burrowing animal activity, and other indications of berm degradation on a frequency of not less than once every two weeks; and
- u) A provision that livestock waste may not be applied during a rainfall or to saturated soil and that conservative waste loading rates will be used in the case of a high water table or shallow earth cover to fractured bedrock. Caution should be exercised in applying livestock wastes, particularly on porous soils, so as not to cause nitrate or bacteria contamination of groundwaters.

Section 900.804 Livestock Waste Volumes

The estimate of the annual volume of available livestock waste for application, as required in Section 900.803(m)(1) of this Part, shall be obtained by multiplying the number of animals constituting the maximum design capacity of the facility by the appropriate amount of waste generated by the animals. [510 ILCS 77/20(f)(1)] The following sources may be used to obtain the amount of waste generated: Midwest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 2-1, or 35 Ill. Adm. Code 560, Table 1.

Section 900.805 Nutrient Value of Livestock Waste

- a) The owner or operator may prepare a plan based on an average of the minimum and maximum numbers in the table values derived from Midwest Plan Service's MWPS-18, Livestock Waste Facilities Handbook (Table 2-1, 10-6, or 10-7) or the Agency's Agriculture Related Pollution regulations (35 Ill. Adm. Code 560, Table 1 or Table 2), or the results of analysis performed on samples of waste. [510 ILCS 77/20(f)(3)] If "as produced" or "as excreted" nutrient values are used, the nitrogen value shall be adjusted to account for losses due to the type of storage system utilized using an average of the ranges

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- in Midwest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-1. Other sources of nutrient values may be used if approved by the Department.
- b) If results of an analysis performed on samples of waste are used for the nutrient values in a plan, the following procedures shall be followed:

- 1) The livestock waste handling facility owner or operator shall annually obtain a laboratory analysis of the nutrient content of the livestock waste to be applied to land as provided within the waste management plan. Livestock waste shall be sampled during the application process. Multiple subsamples shall be obtained and combined into one sample so that a representative sample is obtained for analysis. Results of a sample taken during waste application the previous year can be used for plan preparation unless there has been a change in the waste management practices during the year.
- 2) Livestock waste sampling shall be performed under the direction of a certified livestock manager to ensure a representative sample from the livestock waste storage facility and to preserve the integrity of the sample.
- 3) The laboratory analysis of the livestock waste sample shall include, but not be limited to, total nitrogen, ammonium nitrogen, total phosphorus, and total potassium. Results of the analysis shall be included in the waste management plan.

Section 900.806 Adjustments to Nitrogen Availability

Adjustments shall be made to nitrogen availability to account for the following:

- a) Nitrogen loss from livestock waste due to method of application, as required in Section 900.803(m)(4) of this Part and obtained from an average of the ranges in Midwest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-2; and
- b) The first-year mineralization of organic nitrogen into a plant available form, as required in Section 900.803(m)(5) of this Part and obtained from Midwest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-5.

Section 900.807 Targeted Crop Yield Goal

- a) The targeted crop yield goal, as required in Section 900.803(m)(6) of this Part, shall be determined for each field where the livestock waste is to be applied. The targeted crop yield goal shall be determined by obtaining an average yield over a five-year period from the field where livestock waste is to be applied. The following listing of sources of data shall be utilized to determine the targeted crop yield goal.
- 1) Proven yields. The proven yield shall be determined by obtaining

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an average yield over a five-year period from the field where livestock waste is to be applied. The owner or operator shall indicate the method used to determine the proven yield. Data from years with crop disasters may be discarded. Proven yields shall be used unless there is a sound agronomic basis for predicting a different targeted crop yield goal.

- 2) Crop insurance yields. A copy of the crop insurance yields shall be included in the plan; or
- 3) Farm Service Agency - United States Department of Agriculture yields. A copy of the assigned crop yields shall be included in the plan.
- b) Soils based yield data from the Natural Resources Conservation Service of the United States Department of Agriculture shall be used if the owner or operator cannot obtain a targeted crop yield goal pursuant to subsection (a) of this Section. A soil map of the application areas shall be included in the plan. The targeted crop yield goal shall be determined by a weighted average of the soil interpretation yield estimates for the areas that will receive livestock waste.
- c) Nitrogen and phosphorus fertilization rates for the targeted crop yield goal may be obtained from the Illinois Agronomy Handbook, or 35 Ill. Adm. Code 560, Appendix A.

Section 900.808 Nitrogen Credits

- a) Nitrogen credits shall be calculated by the livestock facility owner or operator, pursuant to Section 900.803(m)(7) of this Part, for nitrogen-producing crops grown the previous year, for other sources of nitrogen applied for the growing season, and for mineralized organic nitrogen in livestock waste applied during the previous three years.
- b) Nitrogen credits shall be calculated by the livestock facility owner or operator for the mineralized organic nitrogen in livestock waste applied during the previous three years at the rate of 50%, 25%, and 12.5%, respectively, of that mineralized during the first year.

Section 900.809 Records of Waste Disposal

Records of the livestock waste disposal shall include the following items:

- a) Date of livestock waste application;
- b) The field where livestock waste application was made;
- c) Method of livestock waste application;
- d) Livestock waste application rate;
- e) Number of acres receiving waste; and
- f) Amount of livestock waste applied.

Section 900.810 Approval of Waste Management Plans

- a) Department approval of livestock waste management plans shall be based on the following criteria:

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- 1) Livestock waste application rate of nitrogen not to exceed the crop nitrogen requirements for targeted crop yield goals;
- 2) Demonstration of adequate land area for livestock waste application based on Section 900.803 of this Part; and
- 3) Completeness and accuracy of plan contents as specified in Section 900.803 of this Part.
- b) The owner or operator of the livestock management facility shall be notified by the Department within 30 working days after receipt of the livestock waste management plan that the plan has been approved or that further information or changes are needed. The owner or operator shall provide the information or changes within 30 working days.

Section 900.811 Sludge Removal

- a) Within 60 days prior to periodic removal of sludge from a livestock waste storage structure, the livestock facility owner or operator shall test the sludge for nutrient content. Application of the sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown for fields with soil phosphorus test results of 300 pounds or less of elemental phosphorus per acre pursuant to Section 900.813(a) of this Subpart. Application of the sludge shall be at a rate not to exceed the phosphorus rate on fields with soil phosphorus test results of greater than 300 pounds of elemental phosphorus per acre pursuant to Section 900.813(b) and (c)(3) of this Subpart.
- b) Prior to the removal of the remaining livestock waste, soil, and sludge during a lagoon closure, the waste, soil, and sludge shall be tested for nutrient content. Application of the waste, soil, and sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown for fields with soil phosphorus test results of 300 pounds or less of elemental phosphorus per acre pursuant to Section 900.813(a) of this Subpart. Application of the waste, soil, and sludge shall be at a rate not to exceed the phosphorus rate on fields with soil phosphorus test results of greater than 300 pounds of elemental phosphorus per acre pursuant to Section 900.813(b) and (c)(3) of this Subpart.
- c) Nitrogen requirements based on targeted yields for the crop to be grown may be met but shall not be exceeded by any combination of the following:
 - 1) Livestock waste applications;
 - 2) Periodic sludge applications; or
 - 3) Remaining livestock waste, soil, or sludge applications during a waste storage structure closure.

Section 900.812 Soil Phosphorus Testing

Soil samples shall be obtained and analyzed from the livestock waste application fields on land owned or under the control of the owner or operator

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where applications are planned. Fields where livestock waste is applied shall be sampled every 3 years. Sampling procedures, such as the number of samples and the depth of sampling, as outlined in the Illinois Agronomy Handbook shall be followed when soil samples are obtained. [510 ILCS 77/20(f)(3.5)] For the purposes of this Subpart, "land owned or under the control of" means livestock waste application fields which are owned, rented, or leased by the owner or operator of the livestock management facility or livestock waste handling facility, or those fields that are the subject of a livestock waste application agreement between the facility owner or operator and the land owner.

Section 900.813 Phosphorus Based Application

- a) If the average Bray P1 or Mehlich test result for soil phosphorus calculated from samples obtained from the application field is 300 pounds or less of elemental phosphorus per acre, livestock waste may continue to be applied to that field in accordance with subsection (f) of Section 20 of the Livestock Management Facilities Act [510 ILCS 77/20(f)] and this Subpart. [510 ILCS 77/20(f)(3.6)]
- b) If the average Bray P1 or Mehlich test result for soil phosphorus for an application field is greater than 300 pounds of elemental phosphorus per acre, the owner or operator shall apply livestock waste at a rate not to exceed the phosphorus maintenance fertilizer rate to the field pursuant to subsection (c) of this Section, until the average Bray P1 or Mehlich test for soil phosphorus indicates there is less than 300 pounds of elemental phosphorus per acre. [510 ILCS 77/20(f)(3.6)]
- c) If a phosphorus application rate is required for a field, the plan shall be amended by the owner or operator for that field to determine the maximum livestock waste application rate. The amendment to the plan for that field shall contain the following:
 - 1) The phosphorus content of the livestock waste, expressed as P[2]O[5], derived from Midwest Plan Service's MWPS-18, Livestock Waste Facilities Handbook (Table 2-1, 10-6, or 10-7), 35 Ill. Adm. Code 560 (Table 1 or Table 2), or the results of analysis performed on samples of waste;
 - 2) The targeted crop yield goal of each crop in the field, obtained pursuant to Section 900.807 of this Subpart;
 - 3) The phosphorus maintenance fertilizer amount, expressed as P[2]O[5] for the targeted crop yield goal of each planned crop, obtained from the Illinois Agronomy Handbook; and
 - 4) The maximum livestock waste application rate, calculated from the items in this subsection (c), for each planned crop.

Section 900.814 Plan Updates

- a) The waste management plan shall be reviewed annually by the livestock facility owner or operator and updated when there is a change in the volume of livestock waste to be disposed of annually, calculated

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pursuant to Section 900.804 of this Subpart, that will cause additional application land not already included in the plan to be needed.

- b) The waste management plan shall also be updated when at least one of the following occurs:

- 1) The average Bray P1 or Mehlich test result for soil phosphorus for an application field is greater than 300 pounds of elemental phosphorus per acre, in which case a separate plan for that field shall be prepared pursuant to Section 900.813 of this Subpart if application to that field is to continue;
- 2) A change in land that is available for livestock waste application occurs, if the land is not currently included in the waste management plan;
- 3) A change in the method of livestock waste disposal or application occurs; or
- 4) A change in the crop to be grown on the application field occurs, if the crop is not already included in the plan.

Section 900.815 Penalties

- a) Any person who is required to prepare a waste management plan and who fails to do so shall be subject to the following:
 - 1) The person shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to prepare a waste management plan.
 - 2) For failure to prepare a waste management plan within 30 working days pursuant to subsection (a)(1) of this Section, the person shall be fined an administrative penalty of up to \$1,000 by the Department and shall be required to enter into an agreement of compliance to prepare a waste management plan within 30 working days.
 - 3) For failure to prepare a waste management plan after the second 30 day period or for failure to enter into a compliance agreement pursuant to subsection (a)(2) of this Section, the Department may issue an operational cease and desist order until compliance is attained. [510 ILCS 77/20(g)]
- b) Any person who is required to maintain and implement a waste management plan and who fails to do so shall be subject to the following:
 - 1) The person shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to maintain and implement a waste management plan.
 - 2) For failure to maintain and implement a waste management plan within 30 working days pursuant to subsection (b)(1) of this Section, the person shall be fined an administrative penalty of up to \$1,000 by the Department and shall be required to enter into an agreement of compliance to maintain and implement a waste management plan within 30 working days.

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- 3) For failure to maintain and implement a waste management plan after the second 30 day period or for failure to enter into a compliance agreement pursuant to subsection (b)(2) of this Section, the Department may issue an operational cease and desist order until compliance is attained.
- c) The operational cease and desist order procedures may be suspended by the Department upon submittal of a waste management plan by the owner or operator to the Department. The cease and desist order shall be canceled by the Department upon approval of the waste management plan by the Department.
- d) A waste management plan prepared as a result of a warning letter or compliance agreement shall be subject to approval by the Department.
- e) Penalties shall not be imposed for excessive nitrogen application for unplanned cropping changes due to weather or other unforeseeable circumstances.

Section 900.816 Odor Control

- a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]
- b) Upon the occurrence of a violation of this Section, the following procedures shall be followed:
 - 1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.
 - 2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding \$1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.
 - 3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.
 - 4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]

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SUBPART I: CERTIFIED LIVESTOCK MANAGER

Section 900.901 Applicability

- a) A livestock waste handling facility serving 300 or greater animal units shall be operated only under the supervision of a certified livestock manager. Notwithstanding this requirement, a livestock waste handling facility may be operated on an interim basis, but not to exceed 6 months, to allow for the owner or operator of the facility to become certified. [510 ILCS 77/30(a)] For the purposes of this Subpart, being operated under the supervision of a certified livestock manager shall mean that the certified livestock manager shall be immediately available to the workers at a livestock waste handling facility either in person or via telecommunications and shall have the ability to be physically present at the livestock waste handling facility within one hour after notification.
- b) Persons may become certified livestock managers by demonstrating an understanding of and competence for the operation of livestock waste handling facilities as established in Section 30 of the Livestock Management Facilities Act [510 ILCS 77/30] and further described in this Subpart. Livestock managers shall establish or re-establish certification when required to do so in accordance with Section 30 of the Livestock Management Facilities Act.
- c) A livestock manager certified pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996 and the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, shall be considered as certified pursuant to this Subpart.
- d) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility is the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.
- e) Any certification shall be valid for 3 years and thereafter subject to renewal. A renewal shall be valid for a 3 year period and the procedures set forth in Section 30 of the Livestock Management Facilities Act shall be followed. The Department may require anyone who is certified to be recertified in less than 3 years for just cause including but not limited to repeated complaints where investigations reveal the need to improve management practices. [510 ILCS 77/30(c)] Examples include, but are not limited to, lagoon maintenance violations, improper waste handling practices, waste management plan violations, other violations of the Livestock Management Facilities Act or rules promulgated thereunder, or violations of other Acts related to livestock management practices including the Dead Animal Disposal Act [225 ILCS 610].
- f) The following methods shall be utilized by an owner or operator to become certified:
 - 1) The owner or operator of a livestock waste handling facility

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serving 300 or greater animal units but less than 1,000 animal units shall become a certified livestock manager by:

- A) Attending a training session conducted by the Department, Cooperative Extension Service, or any agriculture association that has been approved by or is in cooperation with the Department; or
 - B) In lieu of attendance at a training session, successfully completing a written competency examination.
- 2) The owner or operator of a livestock waste handling facility serving 1,000 or greater animal units shall become a certified livestock manager by attending a training session conducted by the Department, Cooperative Extension Service, or any agriculture association that has been approved by or is in cooperation with the Department; and successfully completing a written competency examination. [510 ILCS 77/30(d)]
- g) The Department shall charge \$10 for the issuance or renewal of a certified livestock manager certificate. [510 ILCS 77/30(f)]
- h) For violations pertaining to the certified livestock manager requirements, the owner or operator shall be issued a warning letter for the first violation and shall be required to have a certified manager for the livestock waste handling facility within 30 working days. For failure to comply with the warning letter within the 30 day period, the person shall be fined an administrative penalty of up to \$1,000 by the Department and shall be required to enter into an agreement to have a certified manager for the livestock waste handling facility within 30 working days. For continued failure to comply, the Department may issue an operational cease and desist order until compliance is attained. [510 ILCS 77/30(g)] The cease and desist order shall be canceled by the Department upon presentation to the Department of a valid certified livestock manager certificate issued in the name of the owner, operator, or current employee of the livestock facility.

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Section 900.APPENDIX A Surety Instruments

Section 900.ILLUSTRATION A Surety Bond

SURETY BOND

Date bond executed: _____

Effective date: _____

Principal: _____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites: _____

Name: _____

Address: _____

City: _____

Amount guaranteed by this bond: \$ _____

Name: _____

Address: _____

City: _____

Amount guaranteed by this bond: \$ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond \$ _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Department of Agriculture ("Department") the above penal sum unless the Principal provides closure for each site in accordance with 510 ILCS 77/15(e) and 35 Ill. Adm. Code 900.608. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

Whereas the Principal is required, under Section 15(b) of the Livestock Management Facilities Act ("LMFA") to register at least one livestock waste lagoon with the Department; and

Whereas the Principal is required, under Section 17 of the LMFA to evidence financial responsibility for closure of each registered lagoon; and

Whereas the Surety is licensed by the Illinois Department of Insurance; and

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois; The Surety shall pay the penal sum to the Department if, during the term of the bond, the Department issues a notice of liability to the Surety.

The Surety shall pay the penal sum of the bond to the Department within 30 days after the Department mails the notice of liability to the Surety unless the Surety assumes responsibility to provide closure and so notifies the Department. Payment shall be made by deposit of funds into a designated account upon which the Department is authorized to draw.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum. If the Surety assumes responsibility to provide closure, expenditures made by the Surety for that purpose may exceed the amount of the penal sum, but the amount of the Surety's obligation under this bond is not affected.

This bond shall expire on the _____ day of _____, _____.

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the Department.

In Witness Whereof, the Principal and Surety have executed this Surety Bond and have affixed their seals on the date set forth above. The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety.

PRINCIPAL

Signature Name _____

Typed Name _____

Address _____

DEPARTMENT OF AGRICULTURE

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Title _____

State of Incorporation _____

Date _____

Corporate seal

CORPORATE SURETY

Signature _____

Typed Name _____

Title _____

Corporate seal

Bond premium: \$ _____

DEPARTMENT OF AGRICULTURE

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This credit is subject to _____

DEPARTMENT OF AGRICULTURE

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Section 900.ILLUSTRATION B Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Real Estate or our deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____ up to the aggregate amount of _____ U.S. dollars (\$ _____), available upon presentation of:

1. your sight draft, bearing reference to this letter of credit No. _____; and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Livestock Management Facilities Act [510 ILCS 77] and 35 Ill. Adm. Code 900.706(a) or (c)."

This letter of credit is effective as of _____ and shall expire on _____.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of draft directly into a designated account in accordance with your instructions.

This letter of credit is governed by the Uniform Commercial Code [810 ILCS 5].

Signature _____

Typed Name _____

Title _____

Date _____

Name and address of
issuing institution _____

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 3201
- 3) Section Numbers: Adopted Action:
- | | |
|-----------------|-----|
| 3201.10 | New |
| 3201.20 | New |
| 3201.100 | New |
| 3201.110 | New |
| 3201.200 | New |
| 3201.210 | New |
| 3201.300 | New |
| 3201.310 | New |
| 3201.400 | New |
| 3201.410 | New |
| 3201.420 | New |
| 3201.APPENDIX A | New |

- 4) Statutory Authority: The Illinois Building Commission Act [20 ILCS 3918]

- 5) Effective Date of rulemaking: December 1, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notices of Proposal Published in the Illinois Register: September 8, 2000
23 Ill. Reg. 13442

- 10) Has JCAR issued a Statement of Objections to this rule? No

- 11) Differences between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes

- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: Organizational rules for the operation of the Illinois Building Commission.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jerry B. Crabtree
Code Administrator
420 William G. Stratton Building
Springfield, Illinois 62705
217/557-7500

The full text of the adopted rule begins on the next page:

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE E: MISCELLANEOUS STATE AGENCIES

CHAPTER LXII: ILLINOIS BUILDING COMMISSION

PART 3201

FREEDOM OF INFORMATION

SUBPART A: INTRODUCTION

Section
3201.10 Summary and Purpose
3201.20 Definitions

SUBPART B: REQUEST PROCEDURES

Section
3201.100 Person to Whom Requests are Submitted
3201.110 Form and Content of Requests

SUBPART C: PROCEDURES FOR FREEDOM OF INFORMATION OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section
3201.200 Timeline for Freedom of Information Officer's Response
3201.210 Types of Responses to Requests for Public Records

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section
3201.300 Appeal of a Denial
3201.310 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTORS

Section
3201.400 Copies of Public Records
3201.410 Inspection of Records
3201.420 General Materials Available from the Office of the Commission

APPENDIX A Fee Schedule for Duplication of Public Records

AUTHORITY: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted 1-19-17 at 24 Ill. Reg. 18038, effective 1-19-17.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

SUBPART A: INTRODUCTION

Section 3201.10 Summary and Purpose

- a) This Part is established to further the policy of the State of Illinois whereby all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent in the terms of the Freedom of Information Act [5 ILCS 140/1]. The purpose of this Part is to support the policy of providing public access to the public records in the possession of the Illinois Building Commission (Commission) while, at the same time, protecting legitimate privacy interest and maintaining administrative efficiency.
- b) This Part creates a procedure by which the public may request and obtain public records. Therefore, it is being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)].

Section 3201.20 Definitions

Terms used in this Part shall have the same meaning as in Section 2 of the Freedom of Information Act [5 ILCS 140/2].

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" means the individual responsible for receiving and processing the requests for public records.

"Requestor" means a person who submits a request for public records in accordance with this Part.

"Commission" means the Illinois Building Commission.

SUBPART B: REQUEST PROCEDURES

Section 3201.100 Person to Whom Requests are Submitted

Requests for public records shall be submitted to:

Freedom of Information Officer
Illinois Building Commission
222 South College
Springfield, Illinois 62704

Section 3201.110 Form and Content of Requests

ILLINOIS BUILDING COMMISSION

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- a) Requests for public records shall be in writing.
- b) The requestor shall provide the following information in a request for public records:
- 1) The requestor's full name, address and telephone number;
 - 2) A brief description of the public records sought, being as specific as possible;
 - 3) A statement of whether the request is for inspection of public records, copies of public records, or both; and
 - 4) A statement of whether the records need to be certified.

SUBPART C: PROCEDURES FOR FREEDOM OF INFORMATION OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section 3201.200 Timeline for Freedom of Information Officer's Response

- a) The Freedom of Information Officer shall, promptly, either comply with or deny a written request for public records within 7 working days after the receipt [5 ILCS 140/3(c)].
- b) The Freedom of Information Officer may extend the 7 day period an additional 7 working days for any of the reasons specified in Section 3(d) of FOIA. The Freedom of Information Officer will notify by letter the person making the written request of the decision to deny the request, the reasons for the denial and contact information for those making the decision. [5 ILCS 140/9]

Section 3201.210 Types of Responses to Requests for Public Records

- a) The Freedom of Information Officer shall respond to a request for public information in writing, in one of three ways:
- 1) Approve the request.
 - 2) Approve in part and deny in part.
 - 3) Deny the request.
- b) The response shall be signed by the Freedom of Information Officer.
- c) Upon approval of a request for public records, the Freedom of Information Officer shall either provide the materials immediately, give notice that materials shall be made available upon payment of reproduction costs, give notice of the time and place for inspection of records, or request that the requestor contact the Freedom of Information Officer to schedule a time and place for the inspection of records.
- d) Categorical requests considered by the Freedom of Information Officer to be unduly burdensome shall be denied pursuant to Section 3(f) of FOIA. Before making this determination, the Freedom of Information Officer shall provide an opportunity to the requestor to confer and reduce the request to manageable proportions. The Freedom of Information Officer shall consider a request to be unduly burdensome if the burden on the officer of the Commission outweighs the public interest in the information. Repeated requests for the same public

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- records by the same person shall be deemed unduly burdensome [5 ILCS 140/3(f)].
- e) A denial of a request for public records shall be made in writing and shall state the reasons for the denial and the names and titles of the individuals responsible for the decision pursuant to Section 9(a) of FOIA. Denials of requests determined to be unduly burdensome shall also explain the extent to which compliance with the request would unduly burden the operations of the officer of the Board pursuant to Section 3(f) of FOIA. Each notice of denial shall inform the requestor of his/her right to appeal to the Executive Director. [5 ILCS 140/9]
- f) Failure to respond to a written request within 7 working days after its receipt by the Office of the Commission shall be considered by the requestor to be a denial of the request [5 ILCS 140/3(c)].

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 3201.300 Appeal of a Denial

- a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director pursuant to Section 10 of FOIA. The notice of appeal shall be made in writing and sent to:

Executive Director
Illinois Building Commission
222 South College
Springfield IL 62704

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor and a statement of the reasons why the appeal should be granted. If the appeal is filed because the requestor did not receive a response to a written request for information, the notice of appeal shall state that this is the reason for the appeal.

Section 3201.310 Executive Director's Response to Appeal

- a) Upon receipt of the notice of appeal the Executive Director shall review the public record requested and shall determine whether the record is available for public inspection and copy. The Executive Director shall notify the person making the appeal of such determination within 7 working days after the notice of appeal is received [5 ILCS 140/10(a)].
- b) If the Executive Director determines the public record is exempt from public inspection, the Executive Director shall notify the requestor in writing of the denial and the reasons for the denial and shall inform the requestor of his/her rights to judicial review under

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

Section 11 of FOIA [5 ILCS 140/9(a)].

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTORS

Section 3201.400 Copies of Public Records

- a) Copies of public records shall be provided to the requestor only upon payment of any charges that are due except as provided in subsection (c) of this Section.
- b) Charges for the certification and copies of public records shall be assessed in accordance with Appendix A of this Part.
- c) *Charges may be waived in any case where the Freedom of Information Officer determines the waiver serves the public interest [5 ILCS 140/6(b)].* The Freedom of Information Officer will base this determination on the requestor's ability to pay the charge and whether the requestor's organization serves the citizens of Illinois as a whole.

Section 3201.410 Inspection of Records

- a) Records of the Commission shall be available unless otherwise exempt under Section 7 of FOIA, from 8:30 a.m. through 5 p.m. Monday through Friday (except for State holidays). The requestor must contact the Freedom of Information Officer to schedule an appointment to inspect requested records.
- b) An employee of the Commission may be present throughout the inspection. A requestor will be prohibited from bringing bags, briefcases or other containers into the inspection room.
- c) Documents that the requestor wishes to have copied shall be segregated during the inspection. All copying shall be done by Commission employees.

Section 3201.420 General Materials Available from the Office of the Commission

The following materials shall be made available by the Office of the Commission without charge pursuant to Sections 4 and 5 of FOIA:

- a) A brief description of the organizational structure and budget of the Office of the Commission.
- b) A brief description of the means for requesting information and public records.
- c) A list of types and categories of public records maintained by the Office of the Commission.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

Section 3201.APPENDIX A Fee Schedule for Duplication of Public Records

Type of Duplication Per Copy Charge

Paper copy from paper original	\$.25
Paper copy from microfilm original	\$.50
Certification fee	\$1.00

Some records possessed by the Commission are in book or pamphlet form. The charge for such materials shall be the cost of the materials incurred by the Commission.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: General Policies

2) Code Citation: 2 Ill. Adm. Code 3202

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3202.100	New
3202.200	New
3202.300	New
3202.400	New
3202.500	New
3202.600	New
3202.700	New
3202.800	New
3202.900	New
3202.950	New
3202.1000	New
3202.1100	New
3202.1200	New
3202.1300	New

4) Statutory Authority: The Illinois Building Commission Act [20 ILCS 3918]

5) Effective Date of rulemaking: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notices of Proposal Published in the Illinois Register: September 8, 2000; 23 Ill. Reg. 13450

10) Has JCAR issued a Statement of Objections to this rule? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Organizational rules for the operation

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of the Illinois Building Commission.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Jerry B. Crabtree
Code Administrator
420 William G. Stratton Building
Springfield, Illinois 62705
(217)557-7500

The full text of the adopted rule begins on the next page:

ILLINOIS BUILDING COMMISSION
NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXII: ILLINOIS BUILDING COMMISSION

PART 3202
GENERAL POLICIES

Section	Authority and Purpose
3202.100	Assistance from the Capital Development Board
3202.200	Definitions
3202.300	Agenda
3202.400	Meetings of the Commission
3202.500	State Building Requirements Review
3202.600	Publication of Notices, Proposals and Action by the Commission
3202.700	Receipt of Comments from the Public
3202.800	Rulemaking Requests to the Commission by the Public
3202.900	Commission Revolving Fund
3202.950	Submission of Complaints
3202.1000	Obtaining Other Information
3202.1100	Coordination with State Agencies and the General Assembly
3202.1200	Coordination with the Joint Committee on Administrative Rules and the Administrative Code Division
3202.1300	

AUTHORITY: Implementing and authorized by the Illinois Building Commission Act [20 ILCS 3918].

SOURCE: Adopted at 24 Ill. Reg. 18048, effective 1/1/2000.

Section 3202.100 Authority and Purpose

The Commission shall serve in an advisory capacity on all proposed State building requirement amendments and proposed legislation for conflicting requirements to current State law or current building requirements. Additionally, the Commission will provide recommendations to the proper authority or State agency when necessary on building requirements that have generated concern. The Commission will establish subcommittees in accordance with Part 3200.240 to assist in the review and monitoring of legislation and administrative rules in Illinois. The Commission will develop and maintain a long-term plan to improve administration and enforcement of State building requirements.

Section 3202.200 Assistance from the Capital Development Board

The Capital Development Board shall assist the Commission in carrying out its functions and responsibilities by providing administrative and staff support. The Commission shall advise the Board of its budgetary and staff needs. [20

ILLINOIS BUILDING COMMISSION
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ILCS 3918/45]

Section 3202.300 Definitions

"Act" means the Illinois Building Commission Act [20 ILCS 3918].

"Administrative Code Division" means the unit of the Office of the Secretary of State Index Department that publishes the Illinois Administrative Code and the Illinois Register and with which rules are filed.

"Commission" means the Illinois Building Commission.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Joint Committee" means the Joint Committee on Administrative Rules created by Section 5-90(a) of the Illinois Administrative Procedure Act [5 ILCS 100/5-90(a)].

"Rule" means each agency statement of general applicability that implements, applies, interprets or prescribes law or policy, and that affects the private rights of or procedures available to persons or entities outside the agency, but does not include statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, informal advisory rulings issued under Section 5-150 of the IAPA, intra-agency memoranda or the prescription of standardized forms [5 ILCS 100/1-70].

"State Building Requirements" means any law, rule or executive order implemented by the State of Illinois affecting the construction of buildings in Illinois.

Section 3202.400 Agenda

The agenda of all meetings and hearings held by the Commission and its subcommittees will be set by the Commission and will be made available to the public.

Section 3202.500 Meetings of the Commission

All meetings of the Commission are open to the general public. The Commission encourages and will accept and consider written comments by members of the public prior to Commission meetings, time permitting.

Section 3202.600 State Building Requirements Review

The Commission shall review proposed State building requirement amendments and

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

proposed legislation for conflicting requirements to current State law or current building requirements and make recommendations concerning those amendments or laws to the proper authority. The Commission shall suggest a standard form for requesting compliance alternatives and modifications of State building requirements; forward compliance alternatives requests to the appropriate State agency for action; and suggest procedures and formats for appeals of State agency decisions. [20 ILCS 3918/30]

Section 3202.700 Publication of Notices, Proposals and Action by the Commission

All notices, proposals and certifications of action issued by the Commission will be published in accordance with the Open Meetings Act [5 ILCS 120].

Section 3202.800 Receipt of Comments from the Public

The Commission will encourage members of the public to submit comments directly to the Commission. The Commission will likewise encourage that comments also be directed to the agency involved for its consideration. This policy will not limit the Commission from addressing issues not presented initially to the agency involved.

Section 3202.900 Rulemaking Requests to the Commission by the Public

Members of the public may submit requests to the Commission for adoption, modification or repeal of the rules of the Commission as provided under Section 5-145 of the IAPA [5 ILCS 100/5-145]. The Commission will consider such requests and inform the petitioner of the disposition of the request in writing. Such requests must be in writing and must contain the following information:

- a) The names and addresses of the persons or groups presenting the request;
- b) The specific rules of the Commission that the requestor believes should be modified or repealed;
- c) The specific language the requestor believes should be adopted as a rule by the Commission;
- d) The description of the effect of the rules or lack of rules on the persons or groups presenting the request;
- e) The specific reasons the requestor believes that the Commission should take the rulemaking action; and
- f) Any additional facts or documentation necessary to explain and support the request.

Section 3202.950 Commission Revolving Fund

The Illinois Building Commission Revolving Fund is established to deposit funds received from services offered. *The Illinois Building Commission may establish fees, each of which may not exceed \$250 or an amount approved by the Joint*

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Committee on Administrative Rules for services provided in fulfilling its mandate under the Illinois Building Commission Act. All fees collected by the Commission shall be deposited into the Illinois Building Commission Revolving Fund. The Commission may also accept donations or moneys from any other source for deposit into the fund. All interest accrued on the fees, donations and other deposits to the fund shall be deposited into the fund. All moneys in the Illinois Building Commission Revolving Fund may be used, subject to appropriation by the General Assembly, to carry out the activities of the Act. [20 ILCS 3918/50]

Section 3202.1000 Submission of Complaints

Interested persons or groups may submit complaints to the Commission. Complaints shall be addressed to Commission members or the Executive Director, Illinois Building Commission. Each complaint must include at a minimum:

- a) A statement identifying how the complaint falls within the Commission's jurisdiction;
- b) The names and addresses of the persons or groups presenting the complaint;
- c) The specific issue of the complaint;
- d) The specific reasons the complainant believes that the Commission should take action; and
- e) Any additional facts or documentation necessary to explain and support the complaint.

Section 3202.1100 Obtaining Other Information

Other information about the operation and programs of the Commission may be obtained by addressing specific questions to the Executive Director.

Section 3202.1200 Coordination with State Agencies and the General Assembly

State agencies and the General Assembly are invited to address the Commission with comments, concerns or suggestions about State building requirements. Written submission will be required for the Commission to conduct an official review for the requestor. The Commission will review the submission and respond within 30 days after receipt.

Section 3202.1300 Coordination with the Joint Committee on Administrative Rules and the Administrative Code Division

When the Commission proposes or is required to review rules, it will do so prior to or in conjunction with the Joint Committee and Administrative Code Division in order to facilitate timely promulgation of the rules.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 3200
- 4) Statutory Authority: The Illinois Building Commission Act [20 ILCS 3918]
- 5) Effective Date of rulemaking: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in the Illinois Register: September 8, 2000; 23 Ill. Reg. 13456
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Organizational rules for the operation of the Illinois Building Commission.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jerry B. Crabtree
Code Administrator
420 William G. Stratton Building
Springfield, Illinois 62705
217/557-7500

The full text of the adopted rules begins on the next page:

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXII: ILLINOIS BUILDING COMMISSION

PART 3200
RULEMAKING AND ORGANIZATION

SUBPART A: RULEMAKING

Section	
3200.100	Adoption and Filing
3200.110	Development of Rules
3200.120	Consideration by the Commission
3200.130	Public Comments
3200.140	Special Hearing
3200.150	Adoption

SUBPART B: ORGANIZATION

Section	
3200.200	Composition of the Commission
3200.210	Length of Terms
3200.220	Executive Committee
3200.230	Reimbursement
3200.240	Subcommittees
3200.250	Dispute Resolution
3200.260	Appointment of the Executive Director
3200.270	Duties of Staff
3200.280	Organization
3200.290	Personnel Chart
3200.300	Availability

APPENDIX A Organizational Chart

AUTHORITY: Implementing and authorized by the Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Building Commission Act [20 ILCS 3918].

SOURCE: Adopted at 24 Ill. Reg. 18052, effective 1/20/00.

SUBPART A: RULEMAKING

Section 3200.100 Adoption and Filing

The Illinois Building Commission (Commission) will follow the rulemaking procedure established by the Illinois Administrative Procedure Act [5 ILCS 100] in the adoption and filing of its rules.

ILLINOIS BUILDING COMMISSION

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Section 3200.110 Development of Rules

Rules of the Commission are developed by the Commission members or by the Commission staff under the specific direction of the Commission.

Section 3200.120 Consideration by the Commission

Draft rules are placed on the monthly agenda for consideration by the Commission. At a Commission meeting, the Commission votes on whether to formally propose the rules by publication in the Illinois Register. The Commission may make any desired changes in the draft rules, direct staff to change the draft rules, or postpone the formal proposal of the rules.

Section 3200.130 Public Comments

All public or agency comments submitted on proposed Commission rules are presented to the Commission for consideration. Commission staff may recommend changes in the proposed rules based on comments received. All recommendations require Commission approval prior to being incorporated into a particular rule.

Section 3200.140 Special Hearing

The Commission may hold a special hearing for the purpose of receiving comments on any proposed rules and may appoint a member of the Commission staff or designee to serve as a hearing officer to conduct the hearing. Issues and comments presented at the hearing will be presented to the Commission for review. Commission staff may recommend changes in the proposed rules based on comments received.

Section 3200.150 Adoption

Following the expiration of the required 45 day notice period, the Commission shall place any proposed rules on its agenda for consideration of any recommended changes, public and agency comments, and whether to proceed with the formal rulemaking process. Adoption of rules is by vote of the Commission, conclusion of the Joint Committee on Administrative Rules process and filing of the rules with the Secretary of State.

SUBPART B: ORGANIZATION

Section 3200.200 Composition of the Commission

The Commission is an advisory commission, to be known as the Illinois Building Commission. The Commission shall consist of 11 members, including: a fire official, a building official, an architect, a professional engineer, a structural engineer, a commercial contractor representative, a residential construction industry representative, a mechanical and specialty contractor representative, a labor representative, a disability advocate, and a member of

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

the public. The Commission shall be appointed by the Governor, with the advice and consent of the Senate. [20 ILCS 3918/10]

Section 3200.210 Length of Terms

The fire official, architect, structural engineer, commercial contractor representative, labor representative, and member of the public shall serve initial terms of 2 years. The building envelope official, professional engineer, residential construction industry representative, mechanical and specialty contractor representative, and disability advocate shall serve initial terms of 3 years. Each subsequent term shall be for 3 years. Members may be appointed for more than one term. A chairman of the Commission shall be elected each year by the members of the Commission. [20 ILCS 3918/15]

Section 3200.220 Executive Committee

The Executive Committee of the Commission consisting of the Chairman, Vice-Chairman and Secretary shall specify the duties and responsibilities of all subcommittees and administrative functions of the Commission.

Section 3200.230 Reimbursement

Reimbursement for all Commission activity shall be in accordance with the requirements of the Governor's Travel Control Board in accordance with the State Finance Act [30 ILCS 105]. Commission members shall be reimbursed for travel expenses and shall receive a per diem for each day that the Commission or a subcommittee on which the member serves meets. [20 ILCS 3918/15]

Section 3200.240 Subcommittees

The Commission shall create and appoint members and non-members to the following subcommittees: the planning subcommittee, the building and fire protection subcommittee, the building envelope subcommittee, the structural systems subcommittee, the building services subcommittee, and the accessibility subcommittee. There shall be at least 5 members but not more than 9 members on each subcommittee. The subcommittees shall advise the Commission on any item before the Commission that deals with the area of expertise of the subcommittee. The Commission may create any other subcommittee that it deems necessary. [20 ILCS 3918/20]

Section 3200.250 Dispute Resolution

The Commission shall provide an ongoing forum for continuing dialogue regarding the purpose and duties of the Commission. The Commission shall also serve as a forum to suggest resolution of conflicts between State agencies, or between a State agency and another entity that consents to the resolution forum, concerning State building requirements. [20 ILCS 3918/25]

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

Section 3200.260 Appointment of the Executive Director

The Executive Director serves as the director of the Commission staff and is responsible for the employment and setting of the compensation of the necessary professional, technical and secretarial staff as directed by the Commission.

Section 3200.270 Duties of Staff

The duties and organization of the staff of the Commission are established by the Executive Director as directed by the Commission.

Section 3200.280 Organization

The Commission staff in conjunction with the Executive Director function as a single unit under the direction of the Commission.

Section 3200.290 Personnel Chart

The specific personnel positions authorized by the Commission and their organization and supervisory relationships are presented in the Personnel Organization Chart shown in Appendix A.

Section 3200.300 Availability

A description of the specific responsibilities and duties of each of the personnel positions of the Commission staff is maintained in the Office of the Commission and is available for public inspection.

ILLINOIS BUILDING COMMISSION

NOTICE OF ADOPTED RULES

Section 3200.APPENDIX A Organizational Chart

Commissioners

Executive Director

Administrative Support
Review Division

Legislative/Regulatory
Division

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

310. Appendix B Amend 24 Ill. Reg. 10030
310. Appendix C Amend 24 Ill. Reg. 10030
310. Appendix D Amend 24 Ill. Reg. 10030
310. Appendix G Amend 24 Ill. Reg. 10030
310.280 Amend 24 Ill. Reg. 14844
310.280 Amend 24 Ill. Reg. 15486
310. APPENDIX A, Table AB Amend 24 Ill. Reg. 16151
310.290 Amend 24 Ill. Reg. 17384

15) Summary and Purpose of Amendments:

In Section 310.280, Designated Rate, the annual salary for the Public Information Officer IV position (37004-42-00-005-10-01) was increased from \$62,256 to \$64,932 at the request of the Department of Commerce and Community Affairs.

Also, the annual salary for the Private Secretary II position (34202-50-19-000-00-01) was increased from \$49,008 to \$51,900 at the request of the Illinois State and Local Labor Relations Board.

16) Information and questions regarding this adopted amendment shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
(217) 782-5601

The full text of the adopted amendment begins on the next page:

- 1) Heading of the Part: Pay Plan
2) Code Citation: 80 Ill. Adm. Code 310
3) Section Number: Adopted Action:
310.280 Amend
4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

5) Effective Date of Amendment: December 4, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposals Published in the Illinois Register: April 7, 2000, 24 Ill. Reg. 5802 and May 26, 2000, 24 Ill. Reg. 7574

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: In the first sentence of Section 310.280, the word "position" was changed to "positions" as recommended by the Joint Committee on Administrative Rules. In addition, the rulemakings of 24 Ill. Reg. 5802, April 7, 2000, and 24 Ill. Reg. 7574, May 26, 2000, were combined in the final version.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect?
No

14) Are there any proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Register Citation
310.100	Amend	24 Ill. Reg. 10030
310.110	Amend	24 Ill. Reg. 10030
310.130	Amend	24 Ill. Reg. 10030
310.290	Amend	24 Ill. Reg. 10030
310.490	Amend	24 Ill. Reg. 10030
310.530	Amend	24 Ill. Reg. 10030
310.540	Amend	24 Ill. Reg. 10030

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2000
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1999
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2000
APPENDIX C	Medical Administrator Rates for Fiscal Year 2000
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2000
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

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Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg. 3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 18112, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 12 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; emergency amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18854, effective November 13, 1990; emergency amendment at 15 Ill. Reg. 663,

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

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22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 1824, effective July 1, 2000.

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions position where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 12932-42-35-110-10-02) Annual Salary
54,048

Private Secretary II
(Pos. No. 34202-42-00-000-01-02) Annual Salary
48,492

Public Information Officer IV
(Pos. No. 37004-42-00-005-10-01) Annual Salary
64,932 62,256

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary
75,588

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary
79,728

Department of Human Services

Medical Administrator I, Option D
(Pos. No. 26401-10-79-006-00-21) Annual Salary
142,368

Public Service Administrator
(Pos. No. 37015-10-23-100-30-01) Annual Salary
73,632

Senior Public Service Administrator
(Pos. No. 40070-10-65-000-00-01) Annual Salary
105,475

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Senior Public Service Administrator
(Pos. No. 40070-10-81-920-00-21) Annual Salary
105,480

Illinois State & Local Labor Relations Board

Private Secretary II
(Pos. No. 34202-50-19-000-00-01) Annual Salary
49,008
51,900

Department of Natural Resources

Administrative Assistant II
(Pos. No. 00502-12-30-000-20-01) Annual Salary
50,520

Department of State Police

Senior Public Service Administrator
(Pos. No. 40070-21-10-000-00-01) Annual Salary
109,358

(Source: Amended at 24 Ill. Reg. 18058, effective July 1, 2000.)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

NOTICE OF ADOPTED RULES

1) Heading of the Part: Licensure of Direct Child Welfare Services Employees and Supervisors

2) Code Citation: 89 Ill. Adm. Code 412

3) Section Numbers: Adopted Action:

412.10	New
412.20	New
412.30	New
412.40	New
412.50	New
412.60	New
412.70	New
412.80	New
412.90	New
412.100	New
412.110	New

4) Statutory Authority: The Children and Family Services Act [20 ILCS 505/5c].

5) Effective Date of Rules: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 3, 2000 at 24 Ill. Reg. 3464

10) Has JCAR Issued a Statement of Objection to this rule? Yes

11) Differences between proposal and final version:

In Section 412.20, Definitions, new definitions have been added for "Appeal", "Chief Administrative Law Judge", "Department Representative", "Discipline by another jurisdiction", "Exchange of information", "Final administrative decision", "Incompetence", "Imminent danger to the public", "Minimum standards of child welfare practice", "Persons", "Preponderance of the evidence" and "Respondent".

In Section 412.30, Organization and Administration of Licensing Program, language was added stating that the Department and purchase of service agencies are required to check the license status of job applicants prior

to hiring. Language requiring examinations to fairly test "competence and qualifications" has been changed to read "knowledge and skills". Language was added stating that Board members are required to recuse themselves in matters involving potential conflicts of interest. In this Section, and throughout the rule, in response to a JCAR objection, language has been changed that authorized the Board to make final administrative determinations. The Board will now make recommendations to the Director who will have the final authority. Provisions for the Director to assign Departmental support staff to the Board have also been added.

In Section 412.40, Licensing Requirements, language has been added stipulating that a minimum passing score of 70% must be obtained on the licensure examination. Applicants for licensure must not be in default on educational loans. A requirement that the Department must notify the employee and the employer of the testing outcome, within 7 calendar days after the testing date, was added. The date for current employees to obtain licensure has been changed from 10/30/00 to 1/1/2001 to bring it in line with the statutory requirement for new employees. The Department will periodically offer training for licensure candidates and to inform current licensees of new or revised Department programs or policies.

In Section 412.50, Grounds for Suspension, Revocation or Refusal to Reinstate License, language stating that the Board may take final licensure action was changed to place that authority with the Director. A new subsection regarding default on an educational loan was added. The Department may refuse to issue, may suspend or may revoke the license of a person found to be in default on an educational loan.

In Section 412.60, Investigation, Notice and Proceedings Involving Formal Complaints, language has been substantially rewritten since original publication to provide standards for the conduct of an OIG investigation, recommendations for licensure action, and reports to the Board. Language detailing the administrative hearings process has been spelled out in greater detail as to the process and timeframes necessary for both parties to comply. In addition, the appointment of the Administrative Law Judge, as well as the duties and responsibilities of the ALJ have also been outlined.

A new Section 412.70, Final Administrative Decision, was added. The Section lays out the Director's potential actions regarding a recommendation for action from the Board; requires that the name of the person responsible for compliance with the order, if any, be listed; provides for judicial review; and lists the persons who must be notified of the Director's final administrative decision.

In Section 412.80, Revocation and Suspension of License, the authority to make final licensure action decisions has been transferred from the Board to the Director of the Department.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION
PART 412
LICENSURE OF DIRECT CHILD WELFARE SERVICES EMPLOYEES AND SUPERVISORS

Section	Purpose
412.10	Definitions
412.20	Organization and Administration of Licensing Program
412.30	Licensing Requirements
412.40	Grounds for Suspension, Revocation or Refusal to Reinstate License
412.50	Investigation, Notice and Proceedings Involving Formal Complaints
412.60	Final Administrative Decision
412.70	Revocation and Suspension of License
412.80	Imminent Danger to the Public
412.90	Restoration of Revoked or Suspended License
412.100	Severability of This Part

AUTHORITY: Authorized by Section 5c of the Children and Family Services Act [20 ILCS 505/5c].

SOURCE: Adopted at 24 Ill. Reg. 18068, effective

Section 412.10 Purpose

The purpose of this Part is to set licensing standards of qualifications, education, and training for those who seek to work in the capacity of a direct child welfare services employee.

Section 412.20 Definitions

"Administrative Law Judge" means a licensed attorney who is appointed by the Director of the Department and is responsible for conducting pre-hearings, motion hearings, and the administrative hearing, and issuing a recommended decision.

"Appeal" means any case filed with the Administrative Hearings Unit asserting a right under 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings) and 383 (Licensing Enforcement).

"Authorized representative" means a contractual employee or person, including an attorney, authorized in writing by a licensee to assist in the administrative hearing process.

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In Section 412.100, Restoration of Revoked or Suspended License, language was added spelling out that the Board will make recommendations regarding the restoration of licenses. Considerations that will be reviewed when making a finding of "in the best interest of the public" when making a determination as to whether or not a license will be restored, have been added.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule: This Part requires direct child welfare services supervisors and workers employed by the Department of Children and Family Services or purchase of service agencies to be licensed by the Department as a direct child welfare services employee. Department and purchase of service agencies will be required to ensure that individuals applying for licensure meet the educational requirements of the position for which they are employed as specified in this Part.

16) Information and questions regarding the adopted rules shall be directed to:

Mr. Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
(217) 524-1983
TDD: (217) 524-3715
E-mail: cfpolicy@idcfs.state.il.us

The full text of the adopted rule begins on the next page.

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"Chief Administrative Law Judge" means the person who is responsible for the supervision of the Administrative Law Judges and the coordination of the administrative hearing process.

"Department" means the Department of Children and Family Services.

"Department Representative" means the person who is responsible for presenting the Department's case under 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings).

"Direct child welfare services employee" means a contractual employee or person employed by the Department of Children and Family Services (DCFS) or a purchase of service agency who carries cases or supervises child protective investigations, casework, intact/family preservation, permanency or foster care licensing decisions.

"Discipline by another jurisdiction" means the licensee holds another license or certification that is subject to regulation by another licensing or regulatory body.

"Exchange of information", for purposes of this Part, means the rights of any party to request and have access to, in advance of the pre-hearing, any documents and list of witnesses in the possession of any other party.

"Final administrative decision" means the Director's final decision, order or determination in a particular case that affects the legal rights, duties or privileges of participants and that may be further appealed to the circuit court under the Administrative Review Law.

"Incompetence" means inadequate in one's job performance.

"Imminent danger to the public" means posing or impending harm or risk to a child, family or community.

"License" means a document issued by the Department that is required to practice as a direct child welfare services employee, the qualifications for which include specific education and examination requirements.

"Licensed direct child welfare services employee" means a person employed in child welfare services that holds a direct child welfare services employee license issued by the Department.

"Minimum standard of child welfare practice" means the protection of children from foreseeable and preventable harm through minimally adequate services that protect and promote their health, safety, welfare and permanency.

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"Persons" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, corporations, the State of Illinois and its instrumentalities, legal representatives, trustees in bankruptcy or receivers.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract with the Department.

"Respondent" means the person who has been served with a notice of administrative hearing.

Section 412.30 Organization and Administration of Licensing Program

a) The Department shall:

- 1) Verify that individuals applying for licensure meet the educational requirements of the position for which they are employed, as specified in Section 412.40(b).
- 2) Authorize examinations that fairly test the knowledge and skills of applicants to be a direct child welfare services employee.
- 3) Maintain licensing files for applicants and persons licensed by the Department to be a direct child welfare services employee.
- 4) Maintain rosters of names and addresses of all licensed direct child welfare services employees, and all persons whose licenses have been suspended, revoked or are pending suspension or revocation.
- 5) Provide licensing status information concerning specific individuals to prospective employers within three business days after a written request is received. (The Department and purchase of service agencies are required to check the license status of job applicants prior to hiring.) Licensing status information shall include, but not be limited to, date of issuance and pending disciplinary action against the licensee.
- 6) Employers shall also receive follow-up information within three business days concerning any final administrative decision for any individual whose license had been reported to the employer as pending revocation or suspension.

b) Direct Child Welfare Services Employee License Board

- The Direct Child Welfare Services Employee License Board (hereafter referred to as the Board) shall consist of nine members appointed by the Director of the Department. All persons appointed to the Board shall be residents of the State of Illinois and serve in a voluntary and unpaid capacity.
- 1) The nine member Board shall be composed of five licensed

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professionals from the field of human services as outlined in 89 Ill. Adm. Code 401. Appendix G, at least two of which shall be employed in the private not-for-profit sector and at least one from the public sector; two members who serve on the faculty of an accredited university and have child welfare experience; and two members of the general public who are not licensed under this Part or similar rule. Members chosen from the public must clearly represent consumer interests.

- 2) All licensed professionals and faculty members must be in good standing within their profession. All members of the Board shall have no pending or indicated reports of child abuse or neglect, and no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)].
- 3) Board members are to recuse themselves from sitting on any matter involving an employee of a child welfare agency at which the board member is an employee or contractual employee.
- 4) Members appointed to the initial Board shall serve for one, two or three years. All successive appointments shall be for a term of three years. No member shall be reappointed if his or her reappointment would cause that person to serve on the Board for longer than six consecutive years. Appointments to fill unexpired vacancies shall be made in the same manner as original appointments.
- 5) Board membership shall have reasonable representation from different geographic areas of Illinois.
- 6) The Director may terminate the appointment of any member for good cause, which includes, but is not limited to, unjustified absences or failure to meet Board responsibilities, failure to recuse himself or herself as required by subsection (b)(3), or failure to maintain the professional position outlined in subsection (b)(1).
- 7) The Board shall make recommendations to the Director regarding licensure rules.
- 8) The Board shall make recommendations to the Director regarding final determination concerning revocation, suspension or reinstatement of an employee's direct child welfare services license after a hearing under the provisions of Section 412.60. Votes on recommendations regarding final determinations can be cast in person, by telephonic or electronic means or by mail, at the discretion of the chairperson and upon notification of all members. A simple majority of the members appointed and serving is required when Board members vote by mail or by telephonic or electronic means. A majority of the quorum is required when a recommendation is voted on during a Board meeting. The Director shall make the final determination on all licensure recommendations voted by the Board.
- 9) The Director shall designate the chairperson and vice-chairperson

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of the Board annually.

10) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

11) A majority of the currently appointed and serving Board members shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

12) Members of the Board shall have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board.

13) The Director may assign Department employees to provide staff services to the Board.

Section 412.40 Licensure Requirements

Direct child welfare services supervisors and workers employed by the Department of Children and Family Services or purchase of service agencies shall be licensed by the Department to practice as a direct child welfare services employee.

- a) Direct Child Welfare Services Employees Requiring Licensure
 - Supervisors and workers that participate in investigation, casework, intact or family preservation, permanency, or foster care licensing decisions shall obtain a license to practice as a direct child welfare services employee.
- b) Qualifications for License
 - The Department shall issue a license to an applicant who:
 - 1) has applied in writing on the prescribed form;
 - 2) has no pending or indicated reports of child abuse or neglect, and has no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)];
 - 3) is a graduate of an accredited college or university and meets the requirements of his or her position as defined in 89 Ill. Adm. Code 401 (Licensing Standards for Child Welfare Agencies) or employed by an agency or the Department in the position of a direct child welfare services employee, and the Department has deemed the individual as qualified;
 - 4) has passed the examination to practice as a direct child welfare services employee as authorized by the Department (a score of at least 70% is required to pass the examination);
 - 5) is not delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65]; and
 - 6) is not in default of an educational loan in accordance with Section 2 of the Educational Loan Default Act [5 ILCS 385/2].
- c) Licensure Examination
 - 1) The licensing examination shall be administered by the Department

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or designated testing service. It shall cover knowledge and skills including, but not limited to, understanding of child welfare laws and regulations applicable in Illinois, methods of protecting the safety and well-being of children, and the importance of and techniques for coordination of services.

2) The Department shall notify the employee and employer of the testing outcome within seven calendar days after testing date.

3) Applicants shall be allowed two initial attempts to pass the written examination within 12 months, and one attempt annually from the last failure date thereafter. Applicants are required to pass the examination before they are allowed to practice as a direct child welfare services employee.

d) License Restrictions and Limitations

1) All direct child welfare services employees and supervisors must obtain a license under provisions of this Part to be employed as a direct child welfare services employee by January 1, 2001 or their authority to practice such services shall be terminated. Until the employee obtains a license, he or she may assist a licensed child welfare services employee, but may not be the worker of record.

2) After January 1, 2001, no person shall be allowed to practice as a direct child welfare services employee unless that person has been issued a license under this Part.

3) Licensed direct child welfare services employees are responsible for remaining current with changes in law, rule and procedures governing child welfare services. The Department will periodically offer training sessions to prepare candidates for licensure examination, to inform licensees of new or revised Department programs and policies, etc. When the Director determines that the training is essential for adequate performance by licensees, the Department will announce that the training is mandatory. Licensed direct child welfare services employees are encouraged to participate in optional training offered by the Department, and must participate in all mandatory training.

4) This license does not allow any person to represent herself or himself as a licensed clinical social worker as defined under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]. The license is solely for the purpose of employment with the Department or with a purchase of service agency as a direct child welfare services employee.

Section 412.50 Grounds for Suspension, Revocation or Refusal to Reinstate License

a) Misfeasance

The Board may recommend suspension, revocation or refusal to reinstate any license with regard to any direct child welfare services employee

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license issued by the Department for any of the following acts of misfeasance:

- 1) violation or negligent disregard of this Part;
- 2) a charge or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in the Child Care Act of 1969 (a charge may result only in suspension or temporary refusal to reinstate);
- 3) making any misrepresentation for the purpose of obtaining a license, including failure to certify on the form, or a false statement, that the applicant is not more than 30 days delinquent in complying with a child support order;
- 4) an egregious act that demonstrates incompetence, unfitness or blatant disregard for one's duties in providing direct child welfare services;
- 5) a pattern of deviation from a minimum standard of child welfare practice that could result in an injury to a child;
- 6) aiding or assisting another person in violation of any provision of this Part;
- 7) failing to provide information regarding employee licensure within 60 days in response to a written request made by the Department related to violation of the direct child welfare services employee license;
- 8) habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a worker's inability to practice with reasonable judgment, skill, or safety (This shall not include any person who has sought, will seek or is receiving substance abuse treatment if it does not impact on their ability to practice with reasonable judgement, skill or safety.);
- 9) discipline by another state or national licensing entity when the grounds for suspension, revocation or refusal to reinstate are substantially the same as at least one of the grounds established in this Section;
- 10) falsification of case records, court reports or court testimony;
- 11) failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (ANCR);
- 12) being named as an alleged perpetrator in a pending child abuse or neglect report may only result in suspension or refusal to reinstate; and
- 13) being named as a perpetrator in an indicated report by the Department under ANCR when the indication has not been reversed on appeal or administrative court review in accordance with 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings).

b) Other Causes for Licensure Action

The Department may suspend, revoke or refuse to issue any license for the following causes:

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- 1) Mental Health and Developmental Disabilities
Involuntary admission of a licensee to a mental health facility as provided in the Mental Health and Developmental Disabilities Code shall result in an automatic suspension of his or her license. The license may be reinstated upon recommendation of the Board after a finding by a court that the licensee is no longer subject to involuntary admission.
- 2) Delinquent Compliance With a Child Support Order
Upon a final finding of delinquency or failure to comply with a subpoena or warrant, the Department may refuse to issue, may suspend or may revoke the license of a person who is more than 30 days delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- 3) Default of Educational Loan
The Department may refuse to issue, may suspend or may revoke the license of a person who is found to be in default of an educational loan in accordance with Section 2 of the Educational Loan Default Act [5 ILCS 358/2].

Section 412.60 Investigation, Notice and Proceedings Involving Formal Complaints

- a) Complaints
Complaints shall be made to the appointed staff to the Board for determination as to whether the complaint meets the description of the grounds for licensure action as defined in Section 412.50. Anyone who, in good faith, submits a complaint or provides information under this Part shall be immune from civil or criminal liability. The appointed staff, the Board Chairman or Vice-Chairman, and the Office of Inspector General (OIG) shall review the complaint to determine whether the complaint meets the description of one or more of the grounds for licensure action as defined in Section 412.50. If there is a consensus that the complaint meets the description of one or more of the grounds for licensure action, the report shall be forwarded to the Office of the Inspector General for investigation.
- b) Office of the Inspector General
 - 1) Investigation
The Department's Office of the Inspector General shall investigate formal complaints made to the Board regarding the actions of any person holding or claiming to hold a license. The OIG may impound (pursuant to 89 Ill. Adm. Code 431.130) and subpoena (pursuant to 20 ILCS 505/35.5) documents relevant to an investigation authorized under this Part. The OIG will review documents and interview relevant persons to determine whether a licensed employee violated any of the provisions of this Part. All investigations under this Part shall be completed within 30 days after the date that all documents have been gathered and all

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interviews completed. The OIG shall provide an investigative report with recommendations and relevant supporting documents, if any, to the Board, provided, however, that no recommendation for adverse (suspension or revocation) licensure action can be made before the employee has been informed of the allegations and given an opportunity to respond.

- 2) Proposed Action
If, after an investigation, the OIG determines that licensure action is inappropriate but that there is a basis for disciplinary action, it shall proceed according to 20 ILCS 505/35.5. If the investigation discloses possible criminal acts or violations of rules, the OIG may also refer the investigative findings to the appropriate law enforcement or regulatory agency. If the OIG determines that licensure action is appropriate, the OIG will request the Administrative Hearings Unit to schedule an administrative hearing under subsection (c) of this Section. If the investigation does not provide a basis for adverse licensure action, the OIG will so notify the Board and the licensee in writing.
- 3) Reports to the Board
The OIG shall forward to the Board its recommendation under subsection (b)(2). Reports to the Board shall be confidential except that they shall be provided to:
 - A) members of the Board and its designated staff;
 - B) the licensee against whom the report recommends adverse licensure action and the licensee's employer;
 - C) Department or private agency staff involved in the preparation of the hearing;
 - D) a law enforcement or regulatory agency to whom the Board or the OIG has referred an investigation;
 - E) a juvenile court, upon its finding that access to such records may be necessary for the determination of an issue before it. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained in the record is necessary for the resolution of an issue then pending before it; and
 - F) any person authorized by the Director, in writing, for audit or bona fide research purposes.
- c) Notice of Administrative Hearing
When the Office of the Inspector General requests, the Administrative Hearings Unit shall identify the date, time and place for an administrative hearing, and shall assign an Administrative Law Judge to the case. The Office of the Inspector General shall then notify the licensee in writing, at least 30 calendar days before the scheduled hearing date, of the Department's intent to revoke or suspend his or her license and of the right of the licensee to an administrative hearing. The notice shall be sent to the licensee, the

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licensee's employer and the Administrative Hearings Unit. The notice to the licensee shall be served by personal delivery or certified or registered mail.

The notice shall contain the following:

- 1) the date, time, place and nature of the hearing;
- 2) the name of the licensee and the address of the licensee, if not represented by counsel, or the address of the counsel, if represented by counsel;
- 3) the name and business address of the Department's Representative, if any, at the administrative hearing;
- 4) a citation to the provision in the Children and Family Services Act [20 ILCS 505/5c] that grants the Department of Children and Family Services the legal authority and jurisdiction to hold this hearing;
- 5) a reference to the particular Sections of the statutes and administrative rules involved;
- 6) a short and plain statement of the matters that are the basis of the complaint;
- 7) the reasons that may be deemed an abandonment under Section 412.60(o) and the cause for the entry of a final administrative decision before hearing, including the failure to file an answer to the notice of administrative hearing or the failure to appear at a pre-hearing or hearing without having first obtained a continuance;
- 8) the docket number assigned to this case;
- 9) the name and mailing address of the Administrative Law Judge and any other parties, unless the names or addresses are confidential under the Abused and Neglected Child Reporting Act or Department of Children and Family Services Act, or other applicable statute; and
- 10) a statement of the action sought, including but not limited to revocation, suspension or refusal to renew a license.

d) Answer to the Notice of Administrative Hearing

The respondent shall serve an answer within 15 calendar days after the date on which the notice of administrative hearing is filed with the Administrative Hearings Unit. The answer shall be in writing and signed by the respondent or the respondent's authorized representative. The answer shall admit or deny the charges or shall state that the respondent lacks sufficient information to admit or deny the charges. If the respondent fails to admit, deny or assert that respondent lacks sufficient information to answer, the charge shall be deemed admitted as true.

e) Confidentiality During the Hearing Process

The Department has an affirmative duty to protect the confidentiality of personal information, in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services) and the Adoption Assistance and Child Welfare Act (42 USC 671(a)(8)). Confidentiality

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shall be preserved throughout the administrative hearing, the transmittal of the Administrative Law Judge's recommendation to the Board and the release of the final administrative decision.

f) Rights and Responsibilities in Administrative Hearings

1) Appearance/Authorization to Represent

A) A respondent may bring an authorized representative and witnesses to the hearing. The respondent shall pay expenses of a representative or respondent's witnesses.

B) No person shall be allowed to act as an authorized representative in any matter contested before the Administrative Hearings Unit without first filing a written authorization with the Administrative Hearings Unit. The authorization shall be effective only for the particular matter in which it is filed, unless the matter has been consolidated with other proceedings by order of the Chief Administrative Law Judge or the assigned Administrative Law Judge.

C) No particular form is required to file a written authorization for representation. However, all authorizations filed with the Administrative Hearings Unit shall be notarized, signed by the respondent and authorized representative, and identify:

- i) the name, address, and phone number of the party represented;
- ii) the name, address, and phone number of the authorized representative; and
- iii) the administrative hearing in which representation is authorized.

D) An authorized representative may exercise the rights of the respondent in the hearing process. These rights include the right to:

- i) review and copy material placed in the record during the proceeding;
- ii) receive Department, Board, and administrative hearing notices;
- iii) request and receive discovery materials;
- iv) speak, or otherwise be heard, on behalf of the respondent in the administrative hearing process; and
- v) take any other actions permitted a respondent during the hearing process.

2) During the administrative hearing, the respondent and the Department have the right to:

- A) present and question witnesses;
- B) present any information relevant to the issues;
- C) question or disprove any information, including an opportunity to question opposing witnesses; and
- D) dispose of any disputed issue by stipulation, agreed settlement, consent order, or default.

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- 3) Before and during the administrative hearing:
 - A) the respondent may withdraw from the hearing process and relinquish the license; and
 - B) the Department may amend the charges.
- 4) The proceedings shall be conducted before a certified court reporter.
- g) Confidentiality During the Hearing Process
 - 1) The Administrative Law Judge has the right to exclude from an administrative hearing any individual or agency who does not have the right of access to the information being presented in accordance with the federal Adoption Assistance and Child Welfare Act, the Children and Family Services Act, the Abused and Neglected Child Reporting Act, and any other pertinent Act.
 - 2) The Administrative Law Judge has the authority to bifurcate the hearing into separate segments that deal with issues of other parties in order to preserve confidentiality as mandated under applicable statutes and rules and to prohibit discussion or introduction of evidence that is outside of the scope of the issues being presented in that segment.
- h) The Administrative Hearing and pre-hearing Conference
 - 1) Rules of Evidence
 - A) In an administrative hearing the Department carries the burden of proving, by a preponderance of the evidence, grounds for suspension, revocation or refusal to reinstate license as listed in Section 412.50.
 - 1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under those rules of evidence may be admitted, however, (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.
 - 2) Previous statements made by a child relating to abuse or neglect shall be admitted as hearsay exceptions.
 - B) In addition to any other hearsay exception that exists in Illinois, a statement may be admitted if it has circumstantial guarantees of trustworthiness, and if the probative value of the statement outweighs any prejudice resulting from an inability to cross examine the declarant.
 - 2) Motions
 - A) Copies of the motion shall be served upon the Administrative Law Judge, the Administrative Hearings Unit, and the opposing party at least 10 days before the date set for

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- hearing.
 - B) The Administrative Law Judge may hear any motion that is consistent with administrative practice and procedure. The Chief Administrative Law Judge or the Administrative Law Judge may schedule a pre-hearing conference.
- 3) The Administrative Law Judge shall address the following issues during the pre-hearing conference:
 - i) whether parties have exchanged lists of the persons who will provide testimony during the administrative hearing;
 - ii) whether witnesses should be scheduled to testify at specific times;
 - iii) whether the parties have or will have exchanged records or documents prior to the administrative hearing;
 - iv) whether the parties can agree upon any facts as true;
 - v) motions filed by any party;
 - vi) the need for an interpreter for a party whose primary language is not English or who requires communication assistance.
- B) The pre-hearing conference shall be convened by telephone unless the Administrative Law Judge and the parties agree to an in person pre-hearing conference. The Administrative Law Judge shall place all telephone calls. The cost of telephone calls shall be borne by the Department. The Administrative Hearings Unit shall arrange for the respondent to use a telephone at a Department Field Office if the respondent has previously notified the Department that he/she does not have access to a telephone.
 - C) The Administrative Law Judge may order the parties to attend the pre-hearing conference in person without the consent of all parties. If the Administrative Law Judge orders personal attendance, the Administrative Law Judge shall:
 - i) give written notice to the parties of the date, time and place of the pre-hearing conference, and
 - ii) hold the pre-hearing conference at a place and time convenient for the parties.
- i) The Administrative Law Judge
 - 1) Appointment of the Administrative Law Judge
 - A) The Chief Administrative Law Judge shall select a trained, impartial Administrative Law Judge from the available pool to conduct the administrative hearing. The Administrative Law Judge shall:
 - A) be an attorney licensed to practice law in the State of Illinois;
 - B) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law and administrative law, including familiarity

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- with Department rules, procedures and functions;
- C) not have been involved in the decision to take the action being contested or have rendered legal advice to the decision-maker on the issue; and
- D) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues contested. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.
- 2) Functions and Authority of the Administrative Law Judge
- The Administrative Law Judge shall have all authority allowed under Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art.10] that includes, but is not limited to, the authority to:
- A) conduct a fair, impartial and formal hearing;
- B) inform participants of their individual rights and their responsibilities;
- C) conduct pre-hearing telephone conferences between the parties or their authorized representatives to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
- D) take necessary steps to develop a full and fair record that contains all relevant facts;
- E) administer an oath or an affirmation to all witnesses;
- F) quash or modify subpoenas for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
- G) preserve all documents and evidence for the record;
- H) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
- I) order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or conduct that disrupts the hearing;
- J) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to the submission of briefs, memoranda of law, affidavits or post-hearing briefs;
- K) for good cause shown, the Administrative Law Judge may, on the judge's own motion or the motion of any party, allow a witness to testify at the administrative hearing by telephone.
- j) Consolidating and Severing Issues and Parties
- 1) When common issues of fact or law are raised in more than one set of charges or involve more than one licensee, the Chief Administrative Law Judge may consolidate the charges into a

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- single group hearing. Individuals shall be permitted to present their own cases separately. Nothing in this Section shall override confidentiality considerations.
- 2) The Chief Administrative Law Judge may also combine all sets of charges, appeals and issues involving a single respondent, whether arising under this Part or any other Part, into one hearing.
- 3) The Chief Administrative Law Judge, if required for the fair and efficient administration of the hearing or to prevent possible prejudice to the respondent, may sever any party or any issue from the consolidated hearing. The party or issue severed from the consolidated hearing shall be heard separately.
- 4) The Chief Administrative Law Judge shall decide the order in which to hear any party, appeal or issue that has been severed.
- 5) The Chief Administrative Law Judge may delegate the power to hear and decide any action to consolidate or sever under this Section to any Administrative Law Judge who has been assigned to hear one or more of the appeals.
- k) Exchange of Information
- 1) All requests for information must be in writing and sent to the party from whom the information is sought at least 20 calendar days in advance of the hearing. The requestor must send a copy of the request to the Administrative Hearings Unit. A party, without leave of the Administrative Law Judge, may request from any other party:
- A) a list of witnesses to be called at the hearing; and
- B) copies of all documents that a party intends to present to the Administrative Law Judge at the hearing.
- 2) Copies of all requests for information shall be filed with the Administrative Hearings Unit. All requests for information shall be answered within 10 calendar days after receipt unless, upon good cause shown, leave is sought for additional time to answer.
- 3) If a party fails to answer a request for information, the Administrative Law Judge may enter any just and appropriate order to advance the disposition of the matter.
- 4) Hearings shall not be delayed to permit the exchange of information unless timeliness and due diligence is shown by the party seeking the information.
- 1) Continuances
- 1) The Administrative Law Judge shall grant no continuance of a scheduled hearing or pre-hearing conference to any party except for good cause shown. Good cause includes, but is not limited to:
- A) sickness or death in the immediate family of the respondent, the Department representative or the authorized representative of the respondent;
- B) court or administrative hearing dates scheduled prior to the issuance of the notice of hearing;

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- C) the unavailability of a witness; and
- D) adding or amending the charges in the complaint.
- 2) No request for a continuance shall be granted without notice to all parties and an opportunity to object on the record. All motions for continuance shall be disposed of by written order.
- 3) If a continuance is requested due to the lack of a certified court reporter or interpreter, the party seeking a continuance must demonstrate due diligence in seeking such service for the hearing date.
- 4) Notices of a continued hearing date need not include any restatement of the rights of the parties.

m) Attendance of Witnesses

A party or Administrative Law Judge may subpoena a witness by requesting that the Chief Administrative Law Judge issue a subpoena to compel the attendance of the witness. The request shall be made at least 14 calendar days before the hearing. Requests for subpoenas made less than 14 calendar days before the hearing require the leave of the Chief Administrative Law Judge or the Administrative Law Judge. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena. Grounds for Entry of a Final Administrative Decision before Hearing

The Chief Administrative Law Judge or the Administrative Law Judge shall recommend licensure action to the Board, without further hearing, when:

- 1) the Department, the Board or a court of competent jurisdiction has already made a final administrative decision on the issue as a result of a previous administrative hearing or court decision;
- 2) the respondent does not file an answer within 15 calendar days after the day the notice of administrative hearing was filed with the Administrative Hearings Unit;
- 3) the respondent has stated in writing that the respondent does not wish to proceed to administrative hearing;
- 4) the right to an administrative hearing has been abandoned pursuant to subsection (o); or
- 5) the issue if otherwise not within the jurisdiction of the Administrative Hearings Unit.

o) Abandonment of Right to Administrative Hearing/Default

1) The Administrative Hearings Unit shall find that the respondent has abandoned the right to an administrative hearing when:

- A) the respondent has not filed an answer to the notice of administrative hearing, within 15 calendar days after the notice of administrative hearing was filed with the Administrative Hearings Unit; or
- B) the respondent or the respondent's authorized representative has failed to appear at the hearing and failed to respond to the written notification of the finding of abandonment within 30 days, showing good cause why the finding should be vacated; or

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- C) the respondent failed to notify the Chief Administrative Law Judge of a change of address and a notice of the administrative hearing, sent to the respondent's last known address, was returned as "undeliverable," "unclaimed," "refused," "moved," or "no forwarding address".
- 2) The Administrative Hearings Unit shall find that the Department or the respondent has abandoned the right to an administrative hearing when the Department or the respondent or the respondent's authorized representative, without good cause, fails to appear at a hearing or pre-hearing conference without having received a continuance.
- 3) Any party seeking to vacate a finding of abandonment under subsections (o)(1)(A) and (B) shall file a motion within 30 days after notice of the entry of a finding of abandonment or default, showing good cause why the party failed to appear. A recommendation to the Board regarding licensure action will be entered:

- A) at the end of 30 days if the respondent does not file a motion to vacate; or
- B) when the Administrative Hearings Unit determines that good cause for the failure to appear does not exist.

p) Record of an Administrative Hearing

The Chief Administrative Law Judge shall maintain the record of the administrative hearing and the final administrative decision. All final administrative decisions shall be available to any party for public inspection during regular business hours. However, confidential information shall be deleted in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services).

q) Board Recommendation

1) Making the Final Recommendation

A) The Administrative Law Judge shall prepare a recommendation, with findings of fact, conclusions of law, and whether to suspend the respondent's license, revoke the respondent's license, refuse to restore respondent's license, let the respondent's license continue in good standing or take any other action regarding the license. The Administrative Law Judge shall submit the recommendation to the Board and all parties. The parties shall have 20 calendar days to file exceptions and a brief to the recommendation of the Administrative Law Judge. The parties shall have 20 additional calendar days to respond to the exceptions and brief filed by any other party.

B) The Board shall accept the Administrative Law Judge's findings of fact as true unless it finds that the findings of fact are contrary to the manifest weight of the evidence. The Board may issue a final recommendation to the Director asking the Director to suspend the respondent's license,

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revoke the respondent's license, refuse to restore the respondent's license, let the respondent's license continue in good standing, or take any other action regarding the license.

C) The Board may:

- i) issue a final recommendation by accepting the recommendation of the Administrative Law Judge; or
- ii) issue a final recommendation by making its own findings of fact or conclusions of law that shall be based solely on the record; or
- iii) remand the case to the Administrative Hearings Unit for further proceedings. When the Board remands a case, it shall issue a written order specifying the nature and scope or the additional proceedings. The Administrative Hearings Unit shall schedule a new hearing date that shall be between 15 and 90 calendar days after the date of the remand order. The Administrative Hearings Unit shall notify all parties of the new date. The Administrative Law Judge shall issue a supplemental recommendation and shall serve a copy on all parties. The Board shall review the supplemental recommendation in the same manner as the initial recommendation.

2) Distribution

The Board shall send a copy of the final recommendation to the Director of DCFS, the Office of the Inspector General, the Department's Representative, if any, the respondents, the employer of the licensee, any other parties, the Administrative Hearings Unit, and the Administrative Law Judge.

Section 412.70 Final Administrative Decision

The final administrative decision shall include the name of the person responsible for compliance, if applicable, and shall advise the parties that, under the provisions of the Administrative Review Law [735 ILCS 5/Art. III], they may seek judicial review of the final administrative decision if it is unfavorable to them, within the statutory time frame. Upon receiving the Board's recommendation, the Director must make a final administrative decision. The Director may revoke, suspend or refuse to reissue a license. The Director's final administrative decision must be distributed to the employee, the Office of the Inspector General, the Department's Representative, if any, the respondents, the employee of the licensee, any other parties, the Administrative Hearings Unit, and the Administrative Law Judge.

Section 412.80 Revocation and Suspension of License

Upon the Director's decision to revoke or suspend a license, the licensee shall immediately surrender his or her license to the Department. Upon failure to do

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so by the licensee, the Department shall provide for deactivation of licensure.

Section 412.90 Imminent Danger to the Public

The Director, upon the Board's recommendation, may temporarily suspend the license of a direct child welfare services employee without a hearing simultaneously with the receipt of a complaint that contains sufficient indications of reliability and suggests that the licensee may pose an imminent danger to the public if allowed to continue practicing direct child welfare services pending licensure action. In the event that the licensee's license is suspended without a hearing, a hearing shall be held within 30 days after the suspension has occurred.

Section 412.100 Restoration of Revoked or Suspended License

A licensee may request the restoration of his or her license by submitting a written request to the Board providing specific reasons to support the request. The Board may not recommend restoration of a license where it has been determined by investigation and administrative hearing that it is not in the best interest of the public to do so. Considerations that will be reviewed when making a finding of "in the best interest of the public" include, but are not limited to: the nature of the offense for which the license was revoked; the period of time that has elapsed since the revocation; evidence of rehabilitation; and character references.

Section 412.110 Severability of This Part

If any court of competent jurisdiction finds any rule, clause, phrase, or provision of this Part to be unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

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- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) Section Numbers:

1540.150 Adopted Action:
1540.250 Amendment
1540.330 Amendment
- 4) Statutory Authority: 40 ILCS 5/14-135.03
- 5) Affective Date of Rulemaking: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do the amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill Reg 1125 - 7/28/00
- 10) Has JCAR issued a Statement of Objections to the Amendments? No
- 11) Differences between proposal and final version: Section 1540.250(e), in the last sentence, "receiving notice from the system of the amount due" has been changed to "the estate or eligible survivor has received from the System, the notice of amount due".

Section 1540.330(d), in the fifth sentence, "Within 24 hours after receipt of the objector's petition," has been changed to "Within--24--hours--after receipt--of--the--objector's--petition." Not later than 12:00 noon on the second business day after receipt of the objector's petition."

Section 1540.330(f)(5)(B), immediately after the word "given", the words "by telephone, facsimile or electronically" have been inserted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes
- 13) Will the amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on the Part? No
- 15) Summary and Purpose of Amendments: Section 1540.150 is being amended to define a dependent for purposes of receiving a reversionary annuity.

Section 1540.250 (e) is being added as a result of passage of House Bill 1583. This bill now allows a member to remarry after retirement and qualify the spouse for the survivor's annuity. In order to do so the member must repay the survivor annuity refund received at retirement plus interest. The rule provides that if the member is in the process of repaying the refund on an installment basis and dies, the balance may be paid within thirty days to qualify the spouse for the survivor annuity.

Section 1540.330 is being amended with technical changes for the upcoming 2001 Board of Trustees Election.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Michael L. MorY, Executive Secretary
State Employees' Retirement System of Illinois
P.O. Box 19255 - 2101 South Veterans Parkway
Springfield, Illinois 62794-9255
(217) 785-7444

The full text of the adopted amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Optional Forms of Benefits - Basis of Computation
1540.320 Board Elections
1540.330 Excess Benefit Arrangement
1540.340
TABLE A Optional Forms of Benefits - Basis of Computation

PART 1540
THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

1540.320 SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18466, effective _____.

Section 1540.150 Proof of Dependency

In consideration of the payment of an occupational death benefit, or survivors annuity or reversionary annuity, person or persons claiming such benefits as a dependent shall submit acceptable proof to the Board that the member was contributing at least one-half of the dependent's support at the time of the member's death. A copy of the deceased member's income tax filing for the year of event claiming the person as a dependent shall be accepted as proof of dependency. For the reversionary annuity, a spouse will be deemed to be dependent of the member.

1540.320 Introduction

1540.5 Appointment of Retirement System Coordinator

1540.10 Member's Contribution and Service Credit

1540.20 Determination of Rate of Compensation

1540.30 Prior Service Credit

1540.40 Credit for Service for Which Contributions are Permitted

1540.50 Severance of Employment - A Condition to the Payment of a Refund or Retirement Annuity

1540.60 Death Benefits

1540.70 Disability Claims

1540.80 Benefit Offset

1540.90 Birth Date Verification

1540.100 Marriage Verification

1540.110 Level Income Option

1540.120 Pension Credit for Unused Sick Leave

1540.130 Removal of Children from Care of Surviving Spouse

1540.140 Proof of Dependency

1540.150 Investigations of Benefit Recipients

1540.160 Interest on Member Contributions

1540.170 Date of Application - Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments

1540.180 Lump Sum Salary Payments

1540.190 Removal From the Payroll

1540.200 Latest Date of Membership

1540.210 Period for Payment and Amount of Payment of Contributions

1540.220 Contributions By the State (Repealed)

1540.230 Actuarially Funded Basis (Repealed)

1540.240 Payments to Establish Credit for Service for Which Contributions are Permitted

1540.250 Pick-up Option for Optional Service Contributions

1540.260 Contributions and Service Credit During Nonwork Periods

1540.270 Written Appeals and Hearings

1540.280 Availability for Public Inspection (Recodified)

1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)

1540.300 Organization of the State Employees' Retirement System (Recodified)

1540.310 Amendments

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(Source: Amended at 24 Ill. Reg. 18090, effective 1/1/94)

Section 1540.250 Payments to Establish Credit for Service for Which Contributions are Permitted

- a) If a member has received one or more contribution refunds from the System, past service credits previously refunded may be reinstated only after the two-year minimum service requirement has been satisfied and the member repays the amount of refund(s) previously received together with interest due before retirement either in a lump sum or installment payments by direct payment or payroll deduction. No payment may be applied to any period of service prior to a refund until that refund is paid in full. Service credit will be granted only when a stipulated refund, qualifying, short period or other type of permissive service credit as set forth in the Act is paid in full; except, in the event of death of the member partial service credit may be granted. Such partial service credit will be based on contributions and interest paid as of date of death.
- b) Under the installment option, interest will be calculated on the total amount of contributions for the stipulated period of service through the month of the date the member elects to complete payment. No installment option will be approved for payments of less than \$20.00 per payment or payroll deduction of less than \$10.00 per pay period. Except as to pick-up contributions as described in Section 1540.255, if payment is made in full prior to the final due date stipulated in the option, interest will be recalculated and a refund of interest paid to the member, provided such payment is received at least 2 months prior to the due date and is in excess of \$5.00.
- c) If a member pays the contributions and interest due in full under the installment option, an interest rebate will be paid to reflect interest earned during the installment period. The rebate will be calculated based on regular interest as defined in the Retirement Act. The amount of rebate will be determined as of each June 30 preceding the date of payment in full, based on the total of the payments accumulated in the account at the beginning of each fiscal year. At the time the account is paid in full, the total interest accumulated in the rebate account will be paid to the member. The interest rebate will not be paid if the accumulation is less than \$5.00.
- d) Except in the case of contributions made through the pick-up option described in Section 1540.255, if a member elects to receive a retirement annuity, completes a revocation card or for some other reason elects not to complete his installment payment option, all monies paid by the member on such option will be refunded and no service credit granted.
- e) If a member has received a widow/survivor contribution refund upon retirement, and subsequently a beneficiary becomes eligible for the widow/survivor annuity, the member may repay the widow/survivor

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contribution refund in a lump sum or installment payments. The repayment shall consist of the amount of the widow/survivor contribution refund, together with interest, from the date of refund to the date of repayment. If the member has requested to repay the refund, or is in the process of repaying the refund, and dies before the completion of the repayment, the balance of the repayment due may be paid in a lump sum, within 30 days after the estate or eligible survivor has received from the System, the notice of amount due.

(Source: Amended at 24 Ill. Reg. 18090, effective 1/1/94)

Section 1540.330 Board Elections

In accordance with the Illinois Pension Code, an election for two--4 2 trustees, one contributing member with at least 8 years of creditable service and one annuitant who has been an annuitant for at least one full year, will be held every 5 years beginning in 1986.

a) Definitions of Terms

For purposes of this Section the following definitions shall apply:

"Annuitant" - Any annuitant, as defined in Section 14-103.07 of the Illinois Pension Code [40 ILCS 5/14-103.07]. ~~§1957-ch-108-1/27-par-14-103-077~~

"Contributing Member" - Any member of the System, as defined in Section 14-103.06 of the Illinois Pension Code [40 ILCS 5/14-103.06] ~~§1957-ch-108-1/27-par-14-103-067~~ who is currently contributing to the System.

b) Nominations

Qualified persons for the position of Contributing Member Trustee or Annuitant Trustee shall file a Statement of Candidacy and Trustee Petitions on a form prescribed by the Board, in accordance with the Illinois Pension Code. Petitions shall be signed by not less than 400 contributing members for a Contributing Member Trustee candidate and by not less than 100 annuitants for an Annuitant Trustee candidate and indicate the addresses of the signators opposite their names. Nominating petitions shall be circulated and certified only by contributing members or annuitants for each respective trustee candidate. Forms shall be secured from the Executive Secretary and filed in accordance with the Calendar. Trustee petitions with a Statement of Candidacy must be filed at the System's Springfield office, 2101 South Veterans Parkway, Springfield, Illinois, in person or by mail during the office hours, 8:00 a.m. to 4:30 p.m.

c) Lottery for Ballot Position

All petitions filed by--persons--waiting-in-line-as-of-8-a-m- on or

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before the first day for filing shall be deemed filed as of 8 a.m. on the first day. ~~Petitions filed by mail and in the first mail delivery or pickup--of--that--day--shall be deemed as filed as of 8 a.m. All petitions received thereafter shall be deemed as filed in the order of actual receipt. Where 2 or more petitions are received simultaneously for the same office, the State Employees' Retirement Board, with whom such petitions are filed, shall break ties and determine the order of filing, by means of a lottery.~~

d) Procedures on Objections

The Board of Trustees of the System shall review and rule on all written petitions filed objecting to any candidates qualifications as outlined in 40 ILCS 5/14-134(e) and (f) ~~111-Rev--Stat--1985--ch--100 1/2--pars--134--(e)--and--(f)~~. Petitions objecting shall be made in accordance with 80 Ill. Adm. Code 1540.270 (d)(3). Nomination papers shall be deemed valid unless objections are received by the System ~~filed~~ in writing within 5 days after the last day for filing nomination papers. Not later than 12 noon on the next business day, after receipt of the objector's petition ~~petitions~~, the Executive Secretary shall ~~deliver or transmit~~ ~~transmit~~, by registered mail or ~~receipted--personal--delivery~~ the nomination papers and original objector's petition to the Chairman of the Board, and shall transmit a copy by registered mail or ~~receipted--personal--delivery~~ of the objector's petition to the candidate whose nomination papers are objected to, ~~and addressed to the place of residence designated in said nomination papers. Within 24 hours after receipt of the objector's petition~~ Not later than 12:00 noon on the second business day after receipt of the objector's petition, the Chairman of the Board shall send a call for a meeting to consider the petition by giving notice by registered or certified mail to each of the members of the Board, the objector and candidate. The meeting Meeting of the Board shall not be less than 3 nor more than 5 days after receipt of objector's petition by the Chairman of the Board.

e) Elections

After the Executive Secretary has certified the candidates, separate ballots shall be prepared for the Contributing Member Trustee and for the Annuitant Trustee. Candidate position shall be in the order that the petitions are filed, or as determined by the lottery. Ballots will be mailed on election day to all qualified Contributing Members and Annuitants. All ballots must be returned, sealed in the envelope and provided so as to be received by May 30 of the election year, to be counted. In order to be eligible to vote, a contributing member must make contributions during the first payroll period in March of the election year. In order to be eligible to vote, an annuitant must receive a retirement annuity for March of each election year.

f) Calendar of Events

Beginning in 1986 and every ~~five~~ 5 years thereafter

- 1) JANUARY 2, Forms available from the Executive Secretary for Statement of

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Candidacy and petitions.

- 2) JANUARY 15, Last day Executive Secretary shall publish in newsletter the dates and times when candidates may receive petitions. The pre-filing notice must also include the time and location of the filing period for nominating petitions.
- 3) FEBRUARY 11, First day for candidates to file nomination papers in the office of the Executive Secretary for trustee offices.
- 4) FEBRUARY 19, Last day for candidates to file nomination papers in the office of the Executive Secretary for trustee offices.
- 5) FEBRUARY 24,
 - A) Last day for filing objections to the nomination papers of candidates for the office of trustees in the office of the Executive Secretary.
 - B) Notice shall be given by telephone, facsimile or electronically of the time and place for conducting a lottery when 2 or more petitions are received simultaneously for the same office. Notice shall be given by the Executive Secretary to all candidates involved in the lottery.
- 6) FEBRUARY 28, Lottery A) Last day lottery shall be conducted by the Executive Secretary when 2 or more petitions are received simultaneously for the same office.
 - B) Seven days written notice shall be given of the time and place for conducting a lottery when 2 or more petitions are received simultaneously for the same office. Notice shall be given by the Executive Secretary to all candidates involved in the lottery.
- 7) MARCH 1, Last day for candidates to withdraw their candidacy in the office of the Executive Secretary.
- 8) MAY 1, Election
- 9) MAY 30, Last day all voted ballots shall be received by the Board or its designate.
- 10) JUNE 6, Last day for canvassing of election results by the Board or its designated agent.
- 11) JUNE 18, Last day for the Board to proclaim the results of the election and to issue the certificates of election to the winners. If any of these dates falls on a Saturday, Sunday or holiday, the next succeeding business day for the System shall be the effective date.
- g) Ballot Security Upon receiving the official voted ballots, they shall be secured

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unopened, in a locked location, until such time as the canvassing begins.

h) Board Notification

- 1) The Board or its designated agent shall canvass the ballots and certify the results. Each candidate may have two observers present during the ballot canvassing.
- 2) The candidate receiving the most votes for the office of Contributing Member Trustee will be declared the winner. The candidate receiving the most votes for the office of the Annuitant Trustee will be declared the winner.
- 3) If a candidate should become ineligible for office after the submission of the Statement of Candidacy and Petitions, but before the election, the Board shall notify the candidate of the ineligibility and remove his name from the ballot. If a candidate should become ineligible for office after the mailing of ballots, his votes will not be counted and the eligible candidate receiving the most votes shall be declared the winner.
- 4) Ballots will be retained for 60 days following the certification and then destroyed, pending any litigation.
- 5) In case of a tie vote between 2 or more candidates, the Board shall determine the winner by means of a lottery to break the tie.
- 6) The Board will proclaim the results of the election and issue Certificates of Election to the winners.

(Source: Amended at 24 Ill. Reg. 3803.0, effective 1/1/01)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Award and Monitoring of Funds

- 2) Code Citation: 77 Ill. Adm. Code 2030

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2030.20	Amend
2030.320	Repeal
2030.330	Amend
2030.340	Repeal
2030.350	Repeal
2030.360	Repeal
2030.420	Repeal
2030.540	Repeal
2030.610	Repeal
2030.710	Repeal
2030.720	Repeal
2030.730	Repeal
2030.740	Repeal
2030.760	Repeal
2030.810	Amend
2030.1010	Repeal
2030.1020	Repeal
2030.1030	Repeal
2030.1040	Repeal
2030.1050	Repeal
2030.1060	Repeal
2030.1070	Repeal
2030.1080	Repeal
2030.1110	Repeal
2030.1120	Repeal
2030.1130	Repeal
2030.1140	Repeal
2030.1150	Repeal
2030.1215	Repeal
2030.1225	Repeal

- 4) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

- 5) Effective Date of Amendments: November 30, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER c: ADMINISTRATION OF FUNDING

PART 2030
AWARD AND MONITORING OF FUNDS

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2030.330 Approval of Costs
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2030.350 Costs Allowable with Prior Approval of the Department (Repealed)
2030.360 Unallowable or Limited Costs (Repealed)

SUBPART E: NON-DEPARTMENTAL FUNDING

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9) Notice of Proposal Published in Illinois Register: June 30, 2000, 24 Ill. Reg. 8715

10) Has JCAR Issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? Yes

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendments: This proposed rulemaking will amend or repeal several Sections in this Part. These repeals are part of the Department's actions to create a common and uniform set of rules in the area of Grant and Grant Fund Recovery and Fiscal/Administrative Recordkeeping and Requirements for DHS's service providers. There are approximately 2000 community agencies under contract to deliver services to DHS clients. Since the inception of the Department, these agencies have been subject to a variety of administrative rule requirements regarding grant fund recovery. This rulemaking along with the creation, amendment and repeal of other DHS rules will provide these rules.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

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2030.410 Non-Department Funding
2030.420 Record Keeping (Repealed)
2030.430 Program Income
2030.440 Maintenance of Effort
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SUBPART F: MATCHING AND COST PARTICIPATION REQUIREMENTS

Section
2030.510 General
2030.520 Definitions
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2030.540 Criteria for Contributions (Repealed)
2030.550 Valuation of In-Kind Contributions

SUBPART G: FINANCIAL MANAGEMENT

Section
2030.610 Accounting and Financial Management Requirements (Repealed)
2030.620 Audit Requirements (Repealed)

SUBPART H: FINANCIAL REPORTING

Section
2030.710 General (Repealed)
2030.720 Quarterly Revenue/Expense Reports--Grant-in-Aid Recipients (Repealed)
2030.730 Lapsed Grant-in-Aid Funds (Repealed)
2030.740 End of the Year Report (Repealed)
2030.750 Purchased-Care/Fee-for-Service Invoicing and Auditing
2030.760 Exempt Recipients (Repealed)

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section
2030.810 Site Visits
2030.820 Reports
2030.830 Underutilization
2030.840 Criminal Justice System Referrals
2030.850 Prior Submissions

SUBPART J: FUND DISBURSEMENT

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SUBPART K: TERMINATION--SUSPENSION, CLOSEOUT

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Section
2030.1010 Definitions (Repealed)
2030.1020 Unilateral Termination (Repealed)
2030.1030 Termination by Agreement (Repealed)
2030.1040 Termination or Suspension for Cause (Repealed)
2030.1050 Actions on Termination (Repealed)
2030.1060 Suspension Process (Repealed)
2030.1070 Summary Suspension (Repealed)
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SUBPART L: PROPERTY MANAGEMENT STANDARDS

Section
2030.1110 Scope (Repealed)
2030.1120 Definitions (Repealed)
2030.1130 Real Property (Repealed)
2030.1140 Non-Expendable Personal Property (Repealed)
2030.1150 Expendable Personal Property (Repealed)
2030.1160 Copyrights, Patents and Royalties

SUBPART M: GENERAL PROVISIONS REGARDING AWARD PERFORMANCE

Section
2030.1205 Civil Rights/Nondiscrimination
2030.1210 Compliance During Award Period
2030.1215 Conflict of Interest (Repealed)
2030.1220 Notices
2030.1225 Personnel Administration (Repealed)
2030.1230 Procurement Standards
2030.1245 Protection of Client Records/Confidentiality
2030.1250 Publicity and Publications
2030.1255 Retention and Access Requirements for Records
2030.1265 Severability

SUBPART N: SPECIAL PROVISIONS

Section
2030.1310 Special Provisions for Purchase of Medical Services
2030.1320 Special Provisions for Prevention Services

AUTHORITY: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

SOURCE: Old Part repealed, new Part adopted at 16 Ill. Reg. 2457, effective February 4, 1992; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 22 Ill. Reg. 12158, effective June 24, 1998, for a maximum of 150 days; emergency

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expired November 20, 1998; amended at 23 Ill. Reg. 488, effective December 28, 1998; emergency amendment at 24 Ill. Reg. 9211, effective June 14, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18090, effective July.

SUBPART A: GENERAL

Section 2030.20 Definitions

The following definitions shall apply to this Part:

"Act" means the Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 301].

"Award" means financial assistance in the form of money, property or services in lieu of money, by the Department to an eligible recipient, whether by grant or contract, involving Federal, State or other funds for which the Department has administrative responsibility and authority.

"Client" means a person who receives services under a Department-funded program by a provider.

"Demonstration" means a project wherein money is awarded for a period of time to eligible recipients ~~recipients~~ in order to evaluate the feasibility and efficacy of alternative methods of attaining the goals and purposes of the Act.

"Department" means the Department of Human Services.

"Fee-for-service" means payments are made on the basis of a rate, unit cost or allowable cost incurred and is based on a statement or bill as required by the Department. Payments made as a fee-for-service are not subject to the Illinois Grant Funds Recovery Act [30 ILCS 705] an award-to-an-eligible-recipient-based-upon-a-rate-of-reimbursement--for specified--services--(as--for--example--purchase-of-medical-services--and purchased-care-arrangements).

"Grant-in-aid" means a program receives all or part of the funding in advance of the actual delivery of services. This includes prorated prospective payments and payments made by the Department on an estimated basis or any other basis when the Department does not know the actual amount earned by the provider. This does not include advance payments made under the authority of Section 9.05 of the State Finance Act [30 ILCS 105/9.05]. All funds paid as a grant are subject to the Illinois Grant Funds Recovery Act [30 ILCS 705] an-award-for the-purpose-of-general-financial-assistance-to--an-eligible--provider program--to-be-used-for-costs-allowable-by-this-Part.

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"Provider" means any public or private nonprofit agency, organization, or institution, or unit of state or local government, or a for-profit agency where an award to such would be appropriate and consistent with the purposes of the Act (as set forth in Sections 1-102 and 4-101 of the Act) and the funding source, or other legal entity to which an award is made by the Department, and which is accountable to the Department for the use of the funds provided. The term "provider" does not include individuals who ultimately receive benefits under or are volunteers participating in any funded program. Generally the term refers to programs which receive awards, and which actually provide intervention, prevention, and/or treatment services.

"Purchased care" means a specific type of fee-for-service as set forth in the Individual Service Payment System Manual compiled by the Department's Office of Purchased-Care.

"Recipient" is a general term for any person or organization which receives an award or subaward under this Part. It includes but is not limited to the terms provider and subprovider.

"Secretary" means the Secretary of the Department of Human Services or his or her designee.

"Subaward" means financial assistance in the form of money, property or services, in lieu of money, made under an agreement by a provider to an eligible subprovider or a recipient to an eligible subrecipient. The term includes financial assistance when provided by award, subgrant, contract or subcontract, but does not include procurements or commodities and supplies or incidental support services such as janitorial, catering, laundry, or building maintenance services.

"Subprovider" means any public or private nonprofit award recipient, organization, institution or unit of state or local government, or a for-profit agency where an award to such would be appropriate and consistent with the purposes of the Act and the funding source, or other legal entity to which a subaward is made and which is accountable to the provider and the Department for the use of the funds. The subprovider is the entire legal entity even if only a particular component of the entity is designated in the subaward document. This definition does not include persons or entities which provide incidental support services or supplies, materials or equipment to funded programs. Generally the term refers to programs which are recipients of awards and which actually provide intervention, prevention, and/or treatment services.

"Terms of an award or subaward" means all requirements of the award or subaward whether in statute, regulations, or the award document.

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(Source: Amended at 24 Ill. Reg. 18106, effective 1/1/00)

SUBPART D: COST PRINCIPLES/ALLOWABILITY

Section 2030.320 Allowable Costs (Repealed)

- a) To-be-allowable-award-expense-costs-must-meet-the-following-criteria:
- 1) Be-necessary-and-reasonable-for-efficient-business-administration of-the-funded-program-services-or-project--For-purposes-of this-Section-"necessary"-means-those-expenditures-required-to provide-the-funded-program-services-or-project--"reasonable" means-those-expenditures-which-augment--or--project--which-enhance--the funded--program--services--or--project--without--impairing--the provision-of-necessary-services;
 - 2) Be-directly-or-indirectly-related-to-the-provision-of-the-funded services-or-the-support-or-the-administration-thereof;
 - 3) Be--in-compliance-with--State--Federal--or--local--laws--and regulations--such-as--but-not-limited-to--Federal-and--State--tax provisions;77--Ill--Adm--Code--3058;--and--local-zoning-and-other ordinances;
 - 4) Conform-to-any-limitations-or-excisions-set-forth-in-this-Part as-to-types-or-amounts-of-cost-items;
 - 5) Be-determined--in--accordance-with-generally-accepted-accounting principles--under-the-accounting--standards--set--forth--in "Government-Auditing-Standards,"-United-States-General-Accounting Officer--July-1998--(the-"Yellow-Book")--"Cost-Principles-for Nonprofit-Organizations,"-OMB-Circular-A-122-46/27/80;--and "Grants-and-Agreements-with-Institutions-of-Higher-Education,"-Hospitals;--and--Other-Nonprofit-Organizations,"-OMB-Circular-A-110-47/30/76;--and--OMB-Circular-No.-A-133-43/16/90;--and
 - 6) May-not-be-recoverable-directly-or-indirectly--through--another Federal--State--municipal--or--private-reimbursement-contract; whether-or-not-such-contract-is-under-the-same-accounting-period;
 - b) Expenditures-of-a-similar-nature-and-for-comparable-purposes-shall-be treated-consistently--in-the-accounting-records-and-financial-reports of-the-provider;
 - c) All-credits-discounts-allowances-or-refunds-directly-or-indirectly attributable-to-an-expenditure-shall-be-treated-on-all-financial reports-to-the-Department-as-a-reduction-of-such-expenditure.

(Source: Repealed at 24 Ill. Reg. 18106, effective 1/1/00)

Section 2030.330 Approval of Costs

- a) All funded expenditures, to be allowable, must be approved by the Department. The Department's approval of the provider plan shall

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constitute approval of the expenditures identified therein, provided that such expenditures are not otherwise excluded or limited by this Part or 89 Ill. Adm. Code 509. If such expenditures are limited or excluded by this Part, approval of the provider plan will constitute approval of such costs only if they are clearly and specifically identified to the Department as being costs which are limited or excluded unless approved by the Department. If such identification is made and the provider plan approved, then the approval process set forth in Section 2030.210 is not required.

- b) Recipients not required to have a provider plan shall have a budget of allowable expenses or a rate for services approved by the Department prior to award expenditures, which budget or rate is incorporated into the award document.

- c) Expenditures which are not approved as set forth in subpart (a) require specific prior approval from the Department in writing as set forth in Subpart C. In the case of subawards, no approval shall be given which is inconsistent with the purpose of the terms of the Department award. The Department will approve such expenditures if the recipient furnishes reliable written documentation that the benefit to be derived from the expenditure is justified based upon need and cost, that the costs are consistent with the terms of the award document, and that the recipient can perform all requirements of the award document without additional Department funding.

(Source: Amended at 24 Ill. Reg. 18106, effective 1/1/00)

Section 2030.340 Allocation of Costs/Direct and Indirect Costs (Repealed)

- a) All-allowable-expenses-that-can-be-identified-to-a-specific-funded program-or-project-should-be-directly-charged-to-that-program-or-project--Allowable-reimbursable-expenses-not-directly-identified-to-a Department-funded-program-or-project-must-be-allocated-to-all-program services-both-funded-and-untended--The-total-award-will-be-based-on the-sum-of-the-allowable-direct-and-allocable-indirect-costs-less-any applicable-credits.
- b) Each-recipient-must-adopt-a-cost-allocation-plan-by-an-acceptable method-and-apply-it-consistently-in-the-application-for-the-award--the provider-plan--and-all-required-financial-reporting.
- c) All-costs-included-in-the-allocation-plan-shall-be-supported-by-formal accounting-records-which-substantiate-the-propriety-of-eventual charges.

(Source: Repealed at 24 Ill. Reg. 18106, effective 1/1/00)

Section 2030.350 Costs Allowable with Prior Approval of the Department (Repealed)

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- a) Data processing costs--including purchase--or--rental--of--equipment--service-center costs--and outside consultants;
- b) Building--space--costs--including--rent--maintenance--alterations--remodeling costs--and/or real-estate acquisitions;
- c) Indirect cost methodology and rate;
- d) Inservice training
- the cost of staff attending meetings and conferences held within 250 miles of Illinois are allowable if the individual registration fee is \$500 or less; the meeting concerns direct client care issues; and attending personnel are involved in supervising or providing direct care to clients on a regular basis or if the meeting is sponsored by or at the request of a state human service department or other primary funding source. Prior approval is necessary for meetings exceeding these limits;
- e) Lease agreements for items of equipment as well as any servicing agreement for the items and/or supplies used in its operation(s) if the annualized cost will exceed \$5,000;
- f) Management studies and management consultant costs;
- g) Non-expendable personal property the unit cost of which is expected to exceed \$5,000;
- h) Pre-award costs;
- i) Professional or technical contracts if, in an award period, the total value to any one person or entity is in excess of \$5,000 including legal, accounting, medical, architectural and psychological consulting services and vocational consulting;
- j) Reserve fund establishment or additions to a reserve fund from award funds;
- k) Expenses resulting from transactions with related persons or organizations or with those who have control or common ownership will be considered as a part of allowable expenses to the extent that the expenses represent the actual expense to the related persons or organizations (the "qualifying expenses" of the related persons or organizations).
- For example, a fund recipient may rent a building from a related person or organization; the expenses qualifying for reimbursement are limited to the actual expenses of the related person or organization (such as depreciation, interest on mortgage, real estate taxes, insurance and other approved expenses) rather than the amount paid by the fund recipient to the related person or organization. Thus, the net effect is to treat the rented facility as though it were owned by the fund recipient.
- An exception is allowed for rental or lease expenses paid to a lessor which is exempt under Section 501(c)(2) of the Internal Revenue Code for its equivalent as determined by the Internal Revenue Service) and which would be a related organization to the extent that such expense shall not exceed 10% of fair rental or market value. Fair rental value means rents of comparable property as determined by current offers for property rental in the area; in the case of a sale from a

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related person or organization "fair market value" means an amount not to exceed 10% of the sale price of comparable property as determined by the record of property sales in the area in the preceding six (6) months. In order to qualify for the exception the "relationship" and lease or sale terms must be disclosed in writing to the Department. Related persons or organizations and those with "control or common ownership" include:

i) Relatives of the fund recipient's management staff; board of directors; employees; or owners including a spouse, natural or adoptive parent, stepparent, child, sibling, adopted child, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparent, and grandchild;

2) Parties with a less-than-arms-length relationship such that one party does or has the appearance of being able to control or substantially influence the actions or policies of another directly or indirectly. Such relationship exists between but is not limited to divisions of an organization, organizations under common control through common officers, directors or members, and an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

(Source: Repealed at 24 Ill. Reg. 18.110, effective 1/1/2000)

Section 2030.360 Unallowable or Limited Costs (Repealed)

The following expenditures are not reimbursable from Department award funds and are non-reimbursable costs for the purpose of rate setting. The limitations established herein are not to be construed as applying to non-Department funding sources of a fund recipient:

- a) Certain Association Membership Dues
- the cost of membership in substance abuse treatment and prevention professional associations is allowable provided the benefit from the membership is related to the funded program; the expenditure is for organization rather than individual membership; the cost of the membership is reasonably related to the value of the services or benefits received and does not exceed \$8 or \$1000 of the Department award; whichever is less; and the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation;
- b) Research
- Research expenses are not allowable unless specifically authorized in the award document;
- c) Insurance benefits
- the Department will only allow the cost of accidental death, health

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casualty loss to property, liability, life and disability insurance and retirement plans as they apply to all eligible full-time employees of the fund recipient and a pro rata share of salaried part-time employees to the extent required by Federal or State law or by insurance contract (a) comparable costs will be allowed for hourly employees

d) Compensation to board members or owners are not allowed except as set forth in this subsection:

Reimbursement of reasonable transportation and other travel expenses related to attending fund recipient board meetings and other fund recipient related business is allowable subject to the organization's employee travel policies and if approved through its budget. However, to the extent services have been rendered in a work capacity other than ownership or board functions by such individuals and if prior approval is granted by the board of directors (minus the interested member) reimbursement may be given. It shall not exceed compensatory rates which would be paid to non-controlling persons for comparable services.

e) Entertainment

the costs of non-client entertainment is not reimbursable.

f) Buses and costs of attending professional meetings
Expenditures for buses (other than as provided in subsection (a)) and costs related to attending professional meetings (other than those provided for in Section 2030-350(d)) related to in-service training) to conduct a provider's professional business shall not be reimbursable.

g)

1) Expenses for transportation, lodging, subsistence and related items incurred by employees who are in travel status on official business incident to a grant program are reimbursable from grant funds only if directly related to providing funded program services or if otherwise integral to the operation of the program.

2) In all cases, travel costs are limited to that allowed by format organizational travel policy and, in the case of air travel, less than first-class travel must be used when available. If the recipient organization has no formal travel policy, State travel regulations (60 Ill. Adm. Code 9000) including maximum per diem and subsistence rates prescribed in those regulations shall be used to determine the amount for travel costs.

3) Cost of transportation of clients to treatment via public transportation or in recipient operated vehicles is allowable.

h) Fund raising and promotional expense

Fund raising and/or promotional activities are not reimbursable.

i) Bad debts

Bad debts are a deduction from the applicable income account rather than a reimbursable expense item from grant funds. Using this accounting procedure neither the income nor expense of the agency is overated and duplicate funding of expenses is eliminated.

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j) Charity, grants and professional discounts

Charity grants and professional discounts are not reimbursable expense items. Charity is defined as the donation of cash or in-kind services to other organizations and persons external to the funded program or services approved by the Department. Grants are defined as awards to organizations, programs and/or persons external to the funded program or services of the fund recipient. Professional discounts are defined as reductions in fee assessments to individuals/families because of professional status (e.g., doctor, educator).

k)

Non-client meals are not reimbursable expenses. Non-client meals are defined as meals consumed by parents, guests and staff when staff attendance with the client is not programmatically mandatory. Interest expense

Interest expense paid on borrowed funds which are required to provide funded program activities or services to clients is a reimbursable expense. (Interest income from investments made from excess operating funds must be offset against allowable interest expense. Reimbursable from award funds.) The following items of interest expense are not reimbursable from award funds:

1) Funds borrowed for investment purposes.
2) Funds borrowed to create working capital in excess of two months operating costs.

3) Funds borrowed for the personal benefit of employees, officers, boards of directors, members or owners of the fund recipient.

4) Funds borrowed without a prior time limited written agreement with the Department for the purchase of land, buildings, and/or equipment for future expansion until such items are actually in use.

5) Interest in excess of the prime interest by the fund recipient to persons or organization who are related to the provider through control, ownership, or family relations as defined in Section 2030-350(f).

m) Intra-fund recipient loan interest charges

Interest charges made for intra-fund recipient loans between funds are not reimbursable.

n) Rentals

1) Rental income

Any rental income received by the fund recipient must be used to reduce the reimbursable expense by award funds for the item rented. Provided the expense item is allowable.

2)

Rental or lease costs are reimbursable for buildings and equipment if they are reasonable in light of such factors as rental costs of comparable property, if any, market conditions in the area, alternatives available, the type, life expectancy condition and value of the property leased, and whether they are necessary to provide the funded program activities or services. Such costs shall be allowable based on a

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square footage method; percent of use method or such other method that properly reflects the cost allocation between the property's use under the Department's contract to the total use of the recipient. Such allocation shall include servicing of the items and/or supplies as reimbursable expenses also.

- e) Loan agreements
 where repayment of the principal amount of any loan is not a reimbursable expense since it is the expenditure of the loan proceeds which may qualify for reimbursement, not the loan repayment. (Example: If a fund recipient borrowed \$10,000 for operating expenses, the repayment of the \$10,000 principal amount is not a reimbursable expense, but the expense paid with the principal may be reimbursable.)

- p) Inventories and Prepaid Expenses
 The Department's grant is to fund as established by the budget and most recently approved provider plan, only current expenses of operations and not the development of current or fixed assets. Usage from inventories is an expense and is reimbursable from grant funds. Expenditures for consumable goods such as food, housekeeping supplies, office supplies, etc. used in the program under an approved budget are not reimbursable to the extent that they have not been consumed or used by the end of the grant term. Expenditures for services or contracts (e.g., insurance, equipment maintenance) which extend beyond the grant term shall not be allowed to the extent that they are allocable to a period beyond the grant term. In order to provide for operating continuity of programs which will provide comparable program services to the Department through a new contract, the Department may allow de minimis inventories of consumable supplies as a current year contract reimbursement to the extent that they will be consumed in the provider's ongoing program with the Department no later than 90 days after the end of the contract period to which they are charged. Further, the Department may allow to continuing providers expenditures for services or contracts which will be completed or used in the next contract period. Such expenditures, to the extent allowed as reimbursable in the prior contract award, may not be claimed as expenditures during the next contract period when they are consumed.

- q) Sales of goods or services
 Any expense incurred by the fund recipient for the sale of goods or services is not reimbursable and may be offset against sales revenue in-kind contributions.

- r) The Department recognizes in-kind contributions, both as a source of income and as an expense of operations. Thus, the expense is paid by the source of income directly and the donation expense is not reimbursable from grant funds.

- s) Duplicate funding
 Department funds shall not be used to reimburse expenses payable by other sources of funding.

- t) Unfunded activities

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Reimbursement of any expense for a program service which has not received a Department award is not allowable.

- u) Contingencies
 Contributions to a contingency reserve or any similar provision for unforeseen events are not reimbursable.

- v) Dual compensation is not permitted. This situation is defined as when an employee receives compensation from two or more different and unrelated jobs for work performed in the same time span. This applies to all salaried and contractual personnel and consultants.

- w) Lobbying
 Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity, establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of election attempts to influence the enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence state or local officials to engage in similar lobbying activity) or with any government official or employee in connection with a decision to sign or veto enrolled legislation or through preparing or distributing propaganda or legislative activities are not allowed. However, the following is allowed: providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract, or other agreement through hearing testimony, statements or letters to the Congress or a state legislature, in response to a documented request from such, provided such information is readily obtainable and can be readily put in deliverable form, or activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

- x) Depreciation on equipment/fixed assets, to the extent that the original acquisition was paid in whole or in part with award funds, is non-allowable.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART E: NON-DEPARTMENTAL FUNDING

Section 2030.420 Record Keeping (Repealed)

Recipients shall maintain and make available to Department staff records of the receipt and disposition of all non-Department funds received from any source for the performance of Department-funded programs or services.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

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SUBPART F: MATCHING AND COST PARTICIPATION REQUIREMENTS

Section 2030.540 Criteria for Contributions (Repealed)

All contributions--both--cash--and--in-kind--shall--be--accepted--as--part--of--the recipient's--cost--sharing--and--matching--when--such--contributions--meet--all--of--the following--criteria:

- a) Are--verifiable--from--the--recipient's--records?
- b) Are--not--included--as--contributions--for--any--other--publicly--assisted program?
- c) Are--necessary--and--reasonable--for--proper--and--efficient--accomplishment of--project/program--objectives?
- d) Are--types--of--changes--that--would--be--allowable--under--the--applicable--cost principles--(Subpart B of this Part)?
- e) Are--not--paid--by--the--Federal--government--under--any--assistance--agreement or--by--the--Department?
- f) Are--provided--for--in--the--approved--budget?--and
- g) Conform--to--other--provisions--of--this--Part.

(Source: Repealed at 24 Ill. Reg. 18114.0, effective 11/1/00)

SUBPART G: FINANCIAL MANAGEMENT

Section 2030.610 Accounting and Financial Management Requirements (Repealed)

- a) Each--fund--recipient--shall--establish--and--maintain--a--format--accrual--or modified--accrual--accounting--system--in--accordance--with--generally accepted--accounting--principles--(see--Section--2030-320(f)(5))--to--include a--level--of--documentation--classification--of--entries--and--audit--trails to--provide--accurate--current--and--complete--disclosure--and--to--meet reporting--requirements--as--prescribed--by--the--Department--in--this--Part.
- b) A--format--accrual--or--modified--accrual--accounting--system--shall--not--be required--for--the--following:
 - 1) A--fund--recipient--that--is--required--to--maintain--its--records--on--a cash--basis--by--a--parent--organization--or--funding--source--which provides--more--than--50%--of--the--recipient's--funding?
 - 2) A--fund--recipient--with--a--total--budget--of--\$25,000--or--less?--or
 - 3) A--one-time--Department--award.

c) All--accounting--entries--must--be--supported--by--applicable--source documents--recorded--in--books--of--original--entry--and--posted--to--a general--ledger--on--a--monthly--basis.

- d) Records--must--identify--adequately--the--direct--and--allocated--indirect expenses--and--the--source--and--application--of--funds--for--each--program funded--by--the--Department--the--accounting--system--should--include--a--cost allocation--plan--that--is--consistently--applied.

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- e) The--accounting--system--must--document--procedures--for--determining--the reasonableness--allowability--and--allocability--of--costs--to--each--funded program--in--accordance--with--Subpart B--Cost--Principles.
- f) The--accounting--system--must--provide--comparison--of--actual--budget--amounts for--each--funded--program--financial--information--should--be--related--to performance--and--unit--cost--data.
- g) Procedures--must--be--established--for--control--over--and--accountability--for all--funds--property--and--other--assets--Recipients--shall--adequately safeguard--all--such--assets--and--shall--assure--that--they--are--used--solely for--authorized--purposes--pursuant--to--Property--Management--Standards--in Subpart E.
- h) Department--staff--shall--be--available--for--consultation--and--assistance upon--request--of--the--fund--recipient.
- i) The--Department--recognizes--the--need--for--fund--recipients--to--establish separate--special--funds--e.g.,--capital--expenditures--and--equipment purchases--All--receipts--that--are--not--restricted--by--the--donor--must--be recorded--in--the--operating--fund--Transfers--of--unrestricted--funds--will be--shown--as--transfers--from--the--fund--balance--information--about--all funds--must--be--made--available--to--the--Department--upon--request.
- j) Cash--Management
 - 1) All--cash--receipts--are--to--be--deposited--intact--A--cash--receipts record--is--to--be--maintained--which--will--indicate--all--sources--of income--by--fund--or--award.
 - 2) Award--funds--may--be--used--to--establish--petty--cash--funds--provided they--do--not--exceed--\$500--at--any--one--location--and--they--are maintained--on--a--strict--imprest--basis--this--means--that--cash--and vouchers--will--always--total--the--amount--of--the--fund.
 - 3) Other--than--petty--cash--reimbursements--checks--shall--not--be--made payable--to--cash--or--to--an--employee's--name--for--the--purpose--of cashing--and--paying--vendors--directly.
 - 4) Award--funds--or--program--income--shall--not--be--used--for--employee salary--advances--or--employee--loans.

(Source: Repealed at 24 Ill. Reg. 18114.1, effective 11/1/00)

SUBPART H: FINANCIAL REPORTING

Section 2030.710 General (Repealed)

Grant--in--aid--recipients--shall--complete--and--submit--to--the--Department--quarterly--a report--of--revenue--and--expenses--in--a--format--as--prescribed--by--the--Department. The--purpose--of--these--reports--is--to--determine--if--the--actual--accrued--operating revenue--and--expenses--and--capital--income--and--expenses--of--a--provider--are--within reasonable--limits--of--budget--projections--(items--which--require--budget--revision pursuant--to--Section--2030-230--shall--be--considered--not--to--be--within--reasonable limits)--Recipients--shall--submit--accrued--operating--expenses--and--actual recipient--income--by--source--rather--than--budget--projections--as--shown--on--the

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provider plan. Quarterly reconciliations are to be performed by recipient totals for both operating expenses to budget and operating expenses to funds received by a recipient. In addition, the recipient shall submit an end-of-year report to the State of Illinois Interagency Statistical and Financial Report (ISFR) in a format as prescribed by the Department. Funds awarded as a fee for service or purchased care are not subject to the quarterly revenue expense reporting but are subject to the end-of-the-year ISFR requirement.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.720 Quarterly Revenue/Expense Reports--Grant-in-Aid Recipients (Repealed)

a) Revenue/Expense reporting provides the total revenue accrued operating income and expenses of the recipient, the combined accrued operating income and expenses of all unfunded services or programs, the combined accrued operating income and expenses for all Department-funded services or programs, and the accrued operating income and expenses for each Department-award-funded service, or program. The completed report, including supporting information, must be obtained from the recipient's accounting records. Requests for extensions are subject to review by the Department and are granted for hardship situations not created by the recipient.

1) The appropriate indirect expenses should be allocated based on the allocation factors consistent with the provider plan.

2) In-kind contributions

A) Other sources--Provide the category and valuation of non-state in-kind contributions based upon Section 2030.540.

B) State sources--Provide the category and valuation of state in-kind contributions based upon Section 2030.540.

C) For both state sources and other sources, both the income and expense associated with in-kind contributions must be reported in the recipient's books of account.

3) Recipients approved for total or partial Department-funded depreciation expense and desiring payment of this expense either as part of their monthly billing or at the end of the year are to complete the income/expense report for the capital funds. This amount shall be consistent with approved quarterly allocations and/or their fourth-quarter allocation, including approved budget revisions pursuant to Section 2030.960. Providers not requesting and/or not approved for Department-funded depreciation expense should report this expense on the fourth-quarter revenue/expense report as reported in the provider's records at the end of the year. Depreciation expenses shall be reported in the same manner as the other line-item expenses and allocated proportionately among funded program projects or services.

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4) The provider is completed Quarterly Revenue/Expense Reports are to be submitted not later than the 25th day of the month following the close of each quarter on forms prescribed by the Department. The provider's income reports are to be submitted only for the second (October-December) and fourth (April-June) quarters.

5) Reconciliation of operating expenses to funds

A) Each provider must reconcile total Department-award funds received for the reporting quarter to the total Department award operating expenses for the reporting quarter.

B) If the sum of provider disbursements exceeds the Department-funded expense (which is limited to quarterly allotments on the provider plan), the Department shall reduce the next provider disbursement by the difference.

b) End-of-second-and-third-quarters procedures are as set forth in Section 2030.720(a) except that the reports are prepared on a cumulative basis and that in computing the amount of the disbursement, any funds that the recipient has on hand from the preceding quarter must be added to the total recipient disbursement request paid.

c) End-of-fourth-quarter

1) Complete reconciliation must be made for the entire fiscal year.

2) Total all Department-funded expenses from the four quarterly revenue/expense reports for the year.

3) If total payments exceed total Department-funded expenses, the recipient owes the difference to the Department. Recipients are to make reconciliation payments or adjustments simultaneously with submission of the final quarter report.

4) Overpayments of any amount over \$100 (allowance for rounding off) must be reimbursed to the Department.

5) Payment by a recipient shall be an offset check, draft or money order made payable to the Department. The check, draft or money order shall be accompanied by a cover letter to the Department.

d) Recipients shall submit reconciliation adjustments or repayments, as outlined above, by September 1 of the following fiscal year.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.730 Lapsed Grant-in-Aid Funds (Repealed)

a) Repealed--grant-in-aid funds not expended as outlined in the effective provider plan are considered lapsed. These lapsed funds shall be calculated by comparing the operating expenses to the budget using the following method:

1) Operating expenses to budget--Display the total funds and award funds budgeted for the quarter. These figures must agree with the provider plan. Display the total accrued expense and award funds accrued expenses for the reporting quarter. Indicate

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difference--
2) Considerations---of---exceptions---Recipients---may---request---a
relocation-of-funds-in-the-original-plan---Funds---approved---for
relocation---may-be-used-prospective-or-retrospectively-to-the
immediately-preceding-quarter.

3) Each-provider-shall-file-its-completed-Quarterly-Operating
Revenue/Expense-Report-by-the-25th-day-of-the-month-following-the
close-of-each-quarter---if-the-Department-expenses-are-less-than
the-approved-allocation-level-the-provider-shall-indicate-in
writing-one-of-the-following:

A) Request---for---Department---relocation---of---funds---for
underexpenses-of-more-than-\$5,000-or-5%--of-a-line-item
whichever-is-greater---in-any-Department-funded-program-or
service---As-part-of-the-Quarterly-Operating-Revenue/Expense
Report-the-provider-shall-certify-in-writing-that-funds
relocated-to-a-subsequent-quarter-will-be-expended-in
accordance-with-the-approved-provider-plan-on-file-with-the
Department.

B) Request---for---Department---relocation---of---funds---for
underexpenses-of-\$5,000-or-5%--of-a-line-item-whichever-is
greater---in-any-Department-funded-program-or-service---As-a
part-of-the-Quarterly-Operating-Revenue/Expense-Report-the
provider-shall-submit-an-explanation-of-the-underexpenses
and-a-justification-to-support-the-relocation-of-funds-to
the-subsequent-quarter(s).

4) The-Department-will-review-the-fund-recipients---reasons-for
requesting-the-retention-of-the-funds---if-the-reasons-meet
Department-funding-priorities-as-set-forth-in-the-award-document
and-the-provider-is-capable-of-utilizing-the-lapsed-funds-in
accordance-with-its-provider-plan-or-any-approved-modification
thereof-the-Department-shall-approve-the-reallocation-and-inform
the-fund-recipient-and-shall-work-with-the-recipient-in-the
development-of-any-required-documentation.

5) If-the-Department-does-not-approve-the-reallocation---it-shall
inform-the-recipient-of-this-decision-and-send-it-a-Notice-of
Award Adjustment-as-soon-as-possible-but-not-later-than-40-days
after-the-end-of-the-quarter---the-provider-plan-does-not-have-to
be-revised-solely-because-funds-are-lapsed-However-if-the-plan
is-revised-for-another-reason-the-revision-shall-accurately
indicate-past-financial-performance.

b) Agreement-to-lapse

1) Voluntary-lapse---The-fund-recipient-will-indicate-in-writing
that-no-plan-to-utilize-the-underexpenses-of-funds-exists-and-the
award-may-be-reduced-acordingly.

2) Automatic-lapse---If-no-justification-or-certification-is
received-the-funds-will-be-automatically-lapsed.

c) Notice-of-lapse
The-Department-will-prepare-and-send-to-the-recipient-a-Notice-of

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Award-Adjustment-as-soon-as-possible-but-not-later-than-40-days-after
the-close-of-the-quarter.
d) Recovery-hearing---Grant-funds-which-the-Department-determines-are
being-improperly-held-or-have-been-misspent-are-subject-to-recovery
pursuant-to-the-Grant-Funds-Recovery-Act-(Ill. Rev. Stat. 1989, ch.
1277, pars. 2301-et-seq.).

(Source: Repealed at 24 Ill. Reg. 120.0, effective
10/1/90)

Section 2030.740 End of the Year Report (Repealed)

a) The-Interagency-Statistical-and-Financial-Report-(ISFR)-in-a-format
as-prescribed-by-the-Department-shall-be-filed-by-each-recipient
receiving-a-Department-award-of-\$25,000-or-more-per-annum-The-ISFR
provides-common-cost-reporting-categories-which-are-to-be-utilized-by
providers-as-they-file-end-of-year-revenue/expense-reports-with-the
Department---Unless-the-Department-states-otherwise-funded-prevention
programs-are-not-required-to-file-an-ISFR.

b) The-report-shall-be-filed-with-the-Department-within-120-days-after
the-end-of-the-recipient's-fiscal-year---The-report-shall-be-submitted
along-with-the-recipient's-independently-certified-audit---The
revenues-and-expenses-entered-on-the-report-must-reconcile-with-the
revenues-and-expenses-as-certified-in-the-audit.

(Source: Repealed at 24 Ill. Reg. 120.0, effective
10/1/90)

Section 2030.760 Exempt Recipients (Repealed)

Recipients-who-are-not-required-to-submit-quarterly-revenue/expense-and/or-ISFR
reporting-shall-be-required-by-the-Department-to-provide-records-of-revenue-and
expenses-of-the-funded-project-service-or-program-or-an-audit-or-to-maintain
and-make-available-to-the-Department-upon-request-such-records-as-appropriate
to-the-nature-of-the-award-agreement-and-the-funded-activity-the-amount-of-the
award-and-other-appropriate-factors-Funds-which-the-Department-determines
are-being-improperly-held-or-have-been-misspent-are-subject-to-recovery-under
the-Grant-Funds-Recovery-Act.

(Source: Repealed at 24 Ill. Reg. 120.0, effective
10/1/90)

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section 2030.810 Site Visits

a) The Department shall monitor performance under the award document and
shall conduct periodic visits to each provider. The frequency of

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visits shall be determined by the nature, size, and complexity of the fund supported activity, and other appropriate factors by which the Department determines that on-site review is required to monitor provider performance. The site visit is for the purpose of evaluating performance under the award document. It shall focus on:

- 1) actual accomplishment of and/or progress towards goals and objectives established by the award document for the term of review;
- 2) reasons why established goals and objectives were not met;
- 3) accountability for Department funds, including assessment of necessity and reasonableness of costs, budget performance, cash management, accounting practices, financial management, and long range planning, analysis and explanation of cost overruns on high cost units;
- 34) quality and effectiveness of services provided during the term of review, including effectiveness of community networks;
- 45) assurance that time schedules and projected work units by time periods are being met; and
- 56) compliance with award document conditions.

- b) Providers shall make available to representatives of the Department all financial records, client attendance and/or service records, and case records and other documentation related to the award activities.

(Source: Amended at 24 Ill. Reg. 13.00.02, effective July 1, 2004)

SUBPART K: TERMINATION, SUSPENSION, CLOSURE

Section 2030.1010 Definitions (Repealed)

The following definitions shall apply for the purpose of this Subpart:

- a) Termination
The termination of an award agreement means cancellation in whole or in part, at any time prior to the date of completion of the agreement;
- b) Suspension
The suspension of an award agreement is an action by the Department that temporarily suspends the award agreement pending corrective action by the recipient or pending a decision to terminate the award agreement;

(Source: Repealed at 24 Ill. Reg. 13.00.02, effective July 1, 2004)

Section 2030.1020 Unilateral Termination (Repealed)

In addition to and notwithstanding provisions herein below, the Department or a recipient may terminate any award or part thereof upon thirty (30) days written notice to that effect for any other time period as agreed to by the parties)

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forwarded to the other party. The notice shall set forth the effective date of the termination and shall be addressed to the person who signed the award document at the address indicated therein unless such person or address has been changed by written notice to the Department. Notice to the Department shall be addressed to the Secretary.

(Source: Repealed at 24 Ill. Reg. 13.00.02, effective July 1, 2004)

Section 2030.1030 Termination by Agreement (Repealed)

Parties to the award document may terminate the agreement in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated.

(Source: Repealed at 24 Ill. Reg. 13.00.02, effective July 1, 2004)

Section 2030.1040 Termination or Suspension for Cause (Repealed)

- a) The Department may terminate or suspend any award agreement in whole or in part at any time before the date of completion, whenever it is determined that the recipient has failed to comply with conditions, standards or terms of the award document or of this Part. The Department shall promptly notify the recipient in writing of the determination and the reasons for the termination together with the effective date. Payments made to recipients or recoveries by the Department under the award terminated for cause shall be in accordance with the legal rights and liabilities of the parties. When the Department has determined that a recipient has failed to comply with the terms of this Part or of the award document it may:
 - 1) Suspend assistance pending corrective action by the recipient;
 - 2) Suspend assistance pending a decision to terminate the award by the Department as set forth below;
 - 3) Terminate the assistance as set forth below;
 - 4) Take such other remedies as may be legally available and appropriate in the circumstances.

- b) If a recipient is supported over two or more funding periods, an award may be suspended or terminated in the current period for failure to submit a report still due from a prior period.
- c) In determining whether to take any of the above actions, the Department will balance the severity of the failure to comply against the deprivation of services to clients. Factors to be considered are:
 - 1) Availability of alternative treatment services;
 - 2) The recipient's ability to continue to provide services in accord with the agreement;

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- 3) The period of time for which services would be interrupted due to non-compliance, and
- 4) Pending civil, administrative or criminal actions.

(Source: Repealed at 24 Ill. Reg. 18122.00, effective 1/1/00)

Section 2030.1050 Actions on Termination (Repealed)

When an award is terminated, the recipient shall:

- a) Not incur new obligations for the terminated part and shall cancel as many outstanding obligations as possible. The Department shall allow payment for noncancelable authorized costs incurred pursuant to the performance of the award prior to termination.
- b) Hold any and all Department funds not expended under the award in trust for the benefit of and subject to the direction of the Department.
- c) Furnish to the Department such report(s) as may be requested by it based upon work completed under the provisions of the award. These reports include financial, clinical, medical, and administrative information, whether derived from manual or automated systems.

(Source: Repealed at 24 Ill. Reg. 18122.00, effective 1/1/00)

Section 2030.1060 Suspension Process (Repealed)

Suspension shall be pursuant to notice and opportunity to show cause why the award should not be suspended. However, in situations as set forth in Section 2030.1080 of this Part, the Department may summarily suspend the award.

- a) Notice of intent to suspend
- The Secretary of the Department or his designee shall notify the recipient in writing and by phone of its intent to suspend the award in whole or in part. Such notice shall be provided as set forth in Section 2030.1220. The written notice of intent to suspend shall set forth the reasons for the suspension, any corrective action which may be deemed reasonable, and the effective date of the suspension. The effective date shall be reasonable based on the requirements and seriousness of the situation. The Department shall also send a copy of the notice to any entity whose activities or failures to act have substantially contributed to the proposed suspension and shall inform such entity that it is entitled to submit written material in support of its position. In any informal meeting which may be required, in addition, the Department may use discretion to give such notice to any entity.

- b) Response
- The written notice of intent to suspend shall also notify of the right to request in writing an informal meeting at which the recipient may

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respond and attempt to show why the suspension should not occur, and the supporting documentation should be submitted in a timely manner to the Department. A reasonable period of time within which to submit documentation and request a meeting shall be stated in the notice. In no event shall the deadline be less than seven days after the notice was sent, nor shall the recipient be given a period of time long enough to be a detriment to the Department.

- c) Informal Meeting

If the recipient requests a meeting, the Department shall set a time and place which shall not be less than seven days after the recipient's request and not long enough to be a detriment to the Department. The Department may also establish a time and place for such a meeting if none is requested, and notify the recipient. The meeting shall in no event be less than seven days after the notice of intent to suspend, except by agreement.

- d) Decision

The Secretary or his designee shall consider any material presented to him in writing and in a timely fashion, any material presented to him during the course of the informal meeting and any showing that the recipient has adequately corrected the deficiency which led to the initiation of suspension proceedings. If, after considering the material presented to him, he concludes the recipient has failed to show cause why assistance should not be suspended, he may suspend assistance in whole or in part under such terms and conditions as he shall specify.

- e) Notice of Suspension

Notice of such suspension shall be promptly transmitted to the recipient and shall become effective upon delivery, continuing until such time as the Department gives notice pursuant to this Part that the award is terminated or the suspension lifted. During a period of suspension, no new expenditures shall be made and no new obligations shall be incurred in connection with the suspended program except as specifically authorized in writing by the Department. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension in good faith and in accordance with the provider's approved work program and not in anticipation of suspension or termination shall not be considered new expenditures. However, funds shall not be recognized as committed solely because the recipient has obligated them by contract or otherwise to an agency.

- f) Termination of Suspension

The Secretary or his designee may, in his discretion, modify the terms, conditions and nature of the suspension or rescind the suspension action at any time on his own initiative or upon a showing satisfactory to him that the recipient has adequately corrected the deficiency which led to the suspension and that repetition is not threatened. Suspensions partly or fully rescinded may, in the discretion of the Department, be reimposed with or without further proceedings.

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(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1070 Summary Suspension (Repealed)

a) The Secretary may suspend assistance without the prior notice and opportunity to show cause provided in Section 2030.1060 if he determines in his discretion that immediate suspension is necessary because of a serious risk of:

- A) substantial injury to or loss of funded project funds or property or
- B) violation of a Federal, State or local statute or
- C) violation of Department rules, regulations, guidelines and instructions;

and such risk is sufficiently serious to outweigh the general policy in favor of advance notice and opportunity to show cause.

b) Notice of summary suspension shall be given pursuant to Section 2030.1020 or by hand delivery to the recipient and shall become effective upon delivery. It shall specify the effective date of the suspension, the reason for the suspension and the extent, terms, and conditions of any partial suspension. The notice shall also forbid the recipient from making any new expenditures or incurring any new obligations in connection with the suspended portion. Expenditures to fulfill suspension in good faith and in accordance with the recipient's approved work program and not in anticipation of suspension or termination shall not be considered new expenditures. However, funds shall not be recognized as committed by a Provider solely because the recipient obligated them by contract or otherwise to an agency.

c) The written notice of summary suspension shall also advise that the recipient may request in writing an opportunity to show cause why the summary suspension should be rescinded. Within seven days after receiving such request from the recipient the Department shall set a time and place for an informal meeting wherein the recipient may attempt to show cause why the summary suspension should be rescinded. The informal meeting shall be conducted as set forth in Section 2030.1070(c), (d) and (e). Notwithstanding the provisions of this subsection, the Department may proceed to initiate termination proceedings at any time even though the award has been suspended in whole or in part.

d) Copies of the notice of summary suspension shall be furnished by the recipient to agencies in the same manner as notices of intent to suspend as set forth in Section 2030.1017(a). Agencies may submit written material to the responsible Department official or participate in the informal meeting.

e) If the recipient requests an opportunity to show cause why a summary suspension action should be rescinded, the suspension of assistance shall continue in effect until the recipient has been afforded such

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opportunity and a decision has been made. Such a decision shall be made within seven days after the conclusion of the informal meeting referred to in subsection (c). If the Secretary or his designee concludes after considering all material in support of rescinding the suspension, he may continue the suspension in effect for an additional seven days; provided, however, that if termination proceedings are initiated, the summary suspension of assistance shall remain in full force and effect until all termination proceedings have been fully concluded.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1080 Termination for Cause Process (Repealed)

a) Notice of intent to terminate if the Secretary finds, pursuant to evidence submitted to him, that there is a failure by a recipient to comply with terms and conditions of an award document or with this Part or with issued guidelines, instructions or work plans, which failure is sufficient to warrant termination of assistance in whole or in part, the Secretary or his designee shall notify the recipient in writing and by phone of its intent to terminate in whole or in part. Such notice of intent to terminate shall be provided as set forth in Section 2030.1020 and shall include what is required by and otherwise comply with Section 2030.1070(a).

b) Termination Date Unless the Department determines otherwise, termination shall become effective no later than thirty days after the Notice of Intent to Terminate, regardless of whether a hearing has been set or requested. If the recipient prevails at a hearing after termination, the award shall then be reinstated.

c) Request for Hearing The Notice of Intent to Terminate shall either set a time and place for hearing, which is no less than seven days from the date of notice or advise of the right to request a hearing within a period of time which is no less than seven days from the date of notice. The request shall be made in writing to the Secretary. If no hearing is set and no request is made, the Department shall terminate when it deems appropriate and immediately notify the recipient of the termination in writing as set forth in subsection (a). If a request is made, the Department shall set a reasonable time and place for hearing and shall notify the recipient in writing no less than seven days prior to the date. The date of the hearing shall cause as little prejudice to the recipient and Department as possible. Within two days after its receipt of a Notice of Intent to Terminate and a notice of hearing, the recipient shall send a copy of it to all agencies which would be financially affected by the termination and to each agency identified

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in the notice pursuant to subsection (a). The recipient shall send the Department a list of all agencies notified and the date of notification.

d) Hearing

The hearing shall afford the recipient a full and fair opportunity to demonstrate that it is in compliance with requirements specified in its award document. This Party and issued guidelines and instructions. The Department shall have the burden justifying the proposed termination action. However, the recipient shall have the burden of proving that action as required by its award document. This Party issued guidelines and instructions, was timely taken.

If the Department has initiated termination proceedings because of the activities of an agency that agency may participate in the hearing as matter of right. Any other agency, person or organization that wishes to participate in the hearing may request permission to do so in writing from the presiding officer of the hearing. Such participation shall not alter without the consent of the Department and the recipient the time limitation for the delivery of papers or other procedures set forth herein.

The results of the proceedings and any measure taken thereafter by the Department pursuant to this Part shall be fully binding upon the recipient and all agencies whether or not they actually participate in the hearing.

1) Presiding Officer

The presiding officer at the hearing shall be a Department official designated by the Secretary or a hearing officer of the Department. The officer shall conduct a full and fair hearing avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, he shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing shall be open to the public unless the presiding officer for good cause shown shall determine otherwise. He shall allow persons to participate as deemed necessary to determine the issues.

2) Presentation of Evidence

The Department and recipient shall present oral and/or documentary evidence rebuttal and conduct such examination as required for full and true disclosure of facts bearing on the issues (which shall be those stated in the Notice of Intent to terminate). All papers shall be filed with the presiding officer and sent to other parties prior to filing technical rules of evidence shall not apply but the presiding officer shall apply rules or principles designated to assure production of relevant competent evidence and to subject testimony to such examination and cross examination as may be required for a full and true disclosure of the facts. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence.

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A transcript may be made for the oral evidence and shall be made available to any participant upon payment of the prescribed costs. All documents and other evidence submitted shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. Parties shall be allowed to submit proposed findings and conclusions orally or in writing.

3) Proposed Finding

The presiding officer shall set forth his proposed findings of fact and conclusions and recommendations for termination in whole or in part and terms or conditions thereof. Such proposal shall be served upon the parties and the Secretary. Within 15 days a party may submit in writing exceptions to the proposal.

4) Decision

The Secretary shall upon review of all submitted materials and the oral testimony either accept the presiding officer's proposal or increase, modify, vacate, remit or mitigate the sanction or remand to the officer for further consideration so long as his decision is consistent with the record.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART L: PROPERTY MANAGEMENT STANDARDS

Section 2030.1110 Scope (Repealed)

This subpart prescribes policies and procedures governing title, use and disposition of real property and tangible personal property whose acquisition cost was borne in whole or in part with award funds and ownership and rights for intangible personal property developed under the grants. The fund recipient shall be authorized to use its own property management standards and procedures as long as the provisions of this subpart are met.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1120 Definitions (Repealed)

The following definitions apply for the purpose of this Subpart:

"Acquisition" of property includes purchase, construction or fabrication of property.

"Acquisition cost" of non-expendable personal property acquired by purchase means the net invoice price of the property, including any attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary

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charges--such-as-taxes-duty-protective-in-transit-insurance-freight or-installation-shall-be-included-or-excluded-from-acquisition-cost-in accordance-with-the-grantees-regular-accounting-practices;

"expendable-personal property" means any--tangible--personal--property other-than-non-expendable-property;

"Non-expendable--personal--property" means tangible--personal--property having-a-useful-life-of-more-than-one-year-and-an-acquisition-cost-of \$500-or-more-per-unit;--A-fund-recipient-may-use-its-own-definition-of non-expendable--personal--property-provided-that-such-definition-would at-least-include-all-tangible-personal-property-as-defined-herein;

"Personal-property" means property-of-any-kind-except--real-property--it-may-be--tangible--having--physical--existence;--such--as--patents intangible--having-no-physical--existence;--such--as--patents inventions; and-copyrights;

"Real-property" means--land;--land-improvements;--structures--and appurtenances-thereof;--excluding-movable-machinery-and-equipment;

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1130 Real Property (Repealed)

a) Title-to-real-property-whose-acquisition-cost-was-borne-in-whole-or-in part-by--Department-award-funds-shall-vest-in-the-fund-recipient-upon acquisition--The-recipient-shall-maintain-as-part-of-its-records details-of-the-Department's-percentage-of-participation-in-the-cost-at acquisition;

b) The-use-and-disposition-of--such-property-shall-be-subject-to-the following-requirements;--in-addition-to-any-other-requirements--imposed by-the-terms-and-conditions-of-the-award:

1) The-fund-recipient-shall-use-the-real-property-for-the-purpose authorized-by-the-original-award-as-long-as-needed;

2) The-fund-recipient-shall-obtain-approval-by--the-Department--for the--use--of-the-real-property-in-other-projects-or-services-when the-fund-recipient-determines-that--the-property-is-no-longer needed-for-the-original-award-purposes;--Approval-will-be-granted for--use--in-projects-consistent-with-the-purpose-of-the-original award-and-may-be-granted-for-purposes-consistent-with--Department goals-and-objectives;

3) When-the-real-property-is-no-longer-needed-as-provided-in-(1)-and (2)--above--the-fund-recipient--shall-return-all-real-property furnished-or-purchased-wholly-with-Department-award-funds-to--the control--of-the-Department;--in-the-case-of-property-purchased-in part-with--Department-award-funds--the-fund-recipient--shall

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compensate--the--Department--for--its-fair-share-of-the-property--the-Department-share-of-the-property-shall-be-the-amount-computed by-applying-the-percentage-of-the-Department's-participation--in the-total-cost--of--the-award-project-or-program--for-which-the property-was-acquired-to-the-current-fair-market-value--of--the property;--if--the-property-is-retained;--or--to--the-proceeds--from sale--(after-deducting-actual-and-reasonable--selling--and--fix-up expenses;--if--any;--from--the-sales-proceeds);--when-the-recipient is-authorized-or-required-to-sell--the-property;--proper--sales procedures--shall--be-established-that-provide-for-competition-to the-extent-practicable-and-result-in-the-highest-possible-return; in-cases-in-which-real-property-was-acquired-under-a-grant--whose purpose-was--to--assist--the--grantee--in-acquiring-the-property (e.g., a construction grant);--the-total-cost-of-the-project--or program--for--which-the-property-was-acquired--will-ordinarily-be the-same-as-the-acquisition-cost-of-the-property;

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1140 Non-Expendable Personal Property (Repealed)

a) Title--use-and-disposition

When-non-expendable-personal-property-is-acquired-by-a-fund-recipient; wholly--or--in-part-with-Department-funds;--title-will-not-be-taken-by the-Department-except-as-provided-herein-but-shall-be-vested--in--the fund-recipient--subject-to--the--following--restrictions--on-use-and disposition-of-the-property;

1) The-fund-recipient-shall-retain--the-property--acquired--with Department-funds--in-the-award-project-program-or-service-as-long as--there-is-a-need-for-the-property-to-accomplish-the-purpose-of the-award-whether-or-not-the-program-or-service-continues--to--be supported-by--the-Department-funds;--When--the-fund-recipient determines--there-is-no-longer--a-need--for--the-property--to accomplish--the-purpose-of-the-award;--the-fund-recipient-may-use the-property-in-connection-with-other-awards-it-has-received-from the-Department;

2) When-the-fund-recipient-no-longer-has-need-for--the-property--to accomplish--the-purpose--of--the--original-Department-award;--the property-may-be-used-for-its-own-activities--in--accordance--with the-following-standards:

A) Non-expendable-personal-property-with-an-acquisition-cost-of less--than--\$500--and--used--four-years-or-more--the-fund recipient-may--use--the-property--for--its-own-activities without-reimbursement-to-the-Department-or-sell-the-property and-retain-the-proceeds;

B) All-other-non-expendable-property

the-fund-recipient-may-retain-the-property-for-its-own-use

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provided that a fair compensation is made to the Department for the latter's share of the property. The amount of compensation shall be computed by applying the percentage of Department participation in the award project or program to the current fair market value of the property.

- e) If the fund recipient has no need for the property, the Department shall be contacted for instruction regarding disposition. The Department may instruct that the property be sold and the Department be compensated by applying the percentage of its participation to the sale proceeds, less reasonable selling fees. The Department may also instruct where reasonable that title be transferred to the Department or a third party named by the Department.

b) Management

The fund recipient's property management standards for non-expendable personal property shall also include the following procedural requirements:

- 1) Property records shall be maintained accurately and provide for a description of the property, manufacturer's serial number or other identification number, acquisition date and cost, purchase or property location, use and condition of the property, and ultimate disposition data including sales price or the method used to determine current fair market value if the fund recipient reimburses the Department for its share.
- 2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.
- 3) A formal inventory control system shall be in effect to provide safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of non-expendable property shall be investigated and fully documented.
- 4) Maintenance procedures shall be implemented to keep the property in good condition.
- 5) Sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1150 Expendable Personal Property (Repealed)

When the total inventory value of any unused expendable personal property exceeds \$1,000 in total aggregate fair market value at the expiration of need for any Department award purposes, the fund recipient shall retain the property or sell the property and compensate the Department for its share in the cost. The amount of compensation shall be computed the same as for non-expendable

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Personal Property:

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART M: GENERAL PROVISIONS REGARDING AWARD PERFORMANCE

Section 2030.1215 Conflict of Interest (Repealed)

- a) Fund recipients shall establish safeguards to prevent employees, consultants, agents, and members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. Therefore, each fund recipient receiving Department support must have written guidelines for staff members (administrators, faculty members, professional staff, or employees) and other associated individuals (such as consultants) indicating the conditions under which outside activities, relationships, or financial interests are proper or improper, and providing for notification of these kinds of activities, relationships, or financial interests to a responsible and objective officer of the fund recipient.
- b) Information from a fund recipient concerning the extent of any staff member or associated individual's interest or participation in activities, relationships, or financial interests regarding the fund recipient shall be available to the Department upon request when there exists a situation which creates the appearance of the possibility of a conflict of interest.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 2030.1225 Personnel Administration (Repealed)

Personnel policies and procedures shall be set forth in writing and be available for review by the Department. They shall comply with applicable State and Federal laws and regulations, including but not limited to those in Section 2030.1205(a).

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES
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directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies
- 2) Code Citation: 89 Ill. Adm. Code 530
- 3) Section Numbers: Adopted Action:
530.110 Amend
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- 5) Effective Date of Amendment: November 30, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 30, 2000, 24 Ill. Reg. 8717
- 10) Has JCAR Issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
Yes
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Rulemaking: This adopted rulemaking is part of the Department of Human Services actions to provide a uniform set of specific expectations in the area of Fiscal and Administrative Recordkeeping and Requirements for DHS's service providers. There are approximately 2000 community agencies under contract to deliver services to DHS clients. Since the inception of the Department, these agencies have been subject to a variety of administrative rule requirements regarding fiscal and administrative practices. This rulemaking, along with the amendment or repeal of current DHS rules, will provide these rules.
- 16) Information and questions regarding this adopted amendment shall be

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 530
CRITERIA FOR THE EVALUATION OF PROGRAMS OF
SERVICES IN COMMUNITY REHABILITATION AGENCIES

SUBPART A: INTRODUCTION

Section

- 530.1 Definitions
530.5 Applicable Standards
530.10 Evaluation Procedure
530.20 Recommended Procedures In Preparation For And During The On-Site Visit (Repealed)

SUBPART B: PROGRAM STANDARDS

Section

- 530.100 Available Programs of Service (Repealed)
530.105 Instructions for Completing the Criteria (Repealed)
530.110 Organization & Administration
530.120 Personnel (Repealed)
530.130 Programs and Services
530.140 Safety
530.150 Other (Repealed)

SUBPART C: CONTRACTS WITH COMMUNITY REHABILITATION AGENCIES

Section

- 530.200 Disposition of Referrals
530.230 Program Outcomes
530.240 Designated Program Week
530.250 Types of Contracts
530.260 Fiscal and Administrative Standards

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Adopted at 2 Ill. Reg. 52, p. 481, effective December 29, 1978; codified at 7 Ill. Reg. 3200; amended at 13 Ill. Reg. 141, effective December 27, 1988; emergency amendment at 17 Ill. Reg. 11701, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20380, effective November 15, 1993; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 14663, effective December 13, 1999; emergency amendment at 24 Ill. Reg. 9245,

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effective June 14, 2000, for a maximum of 150 days; emergency expired November 10, 2000; amended at 24 Ill. Reg. 18132, effective June 14, 2000.

SUBPART B: PROGRAM STANDARDS

Section 530.110 Organization & Administration

a) Corporate Status

The agency must be a legally constituted corporate entity or an entity operated by a state or political subdivision of a state under an appropriate Federal, state or local statute.

b) Governing Body

1) The governing body's responsibility for establishing the organization's mission, policies, and necessary financial support must be in writing.

2) The membership of the governing body shall be broadly representative of the community. Suggested representation would include business, education, accounting, and consumer.

3) The governing body shall employ a full-time Director and delegate to that person the authority and responsibility for the management of the agency in accordance with established policies.

4) The governing body or its executive committee, the Director, and invited staff shall meet at least quarterly.

5) The governing body shall review and approve the agency budget and the independent, certified audit, annually and the income and expense reports at least quarterly.

6) As part of the constitution or bylaws, the governing body shall have a policy guarding against possible conflicts of interest between its members and the operation of the agency.

7) The agency must have insurance to protect assets and to ensure compensation for staff, individuals with disabilities, volunteers, and the public, in the event such compensation would be required for occurrences for which the agency is liable. There shall be documentation that the governing body reviews the insurance profile annually after consultation with professional insurance representatives.

c) Administration

1) The agency shall complete an annual written evaluation of all its programs and services that shows evidence of:

- A) maintenance of safe and accessible program;
B) a review of the quality and appropriateness of the services offered;
C) a review of the effectiveness of the services as measured by outcomes achieved; and
D) customer satisfaction with the services received and employment outcomes achieved.
- 2) Staff shall receive in-service training in accordance with the

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agency's policies and procedures.

- 3) The agency shall employ staff members in such numbers and of such types to meet the needs of the individuals served in a manner consistent with the purposes and objectives of the organization.
- 4) The agency shall have public information materials that identify:

- A) the programs and services available;
- B) the population to be served;
- C) how programs and services can be obtained; and
- D) its non-discrimination policy.

d) Federal and State Regulations

- 1) The agency shall offer programs and services that are accessible to persons with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), the Americans with Disabilities Act (42 USC 12001), and the Illinois Accessibility Code (71 Ill. Adm. Code 400).

- 2) The agency shall engage in an Affirmative Action Program that provides documentation of its non-discrimination policy and staff characteristics as required by Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794).

- 3) The agency shall show evidence of compliance with both federal and State Department of Labor rules and regulations governing wage reimbursement and the Workers' Compensation Act (820 ILCS 305).

- 4) The agency shall comply with the Department of Human Services rules regarding Fiscal/Administrative Recordkeeping and Requirements (89 Ill. Adm. Code 509).

(Source: Amended at 24 Ill. Reg. 18132, effective 1/1/2000)

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- 1) Heading of the Part: Fiscal/Administrative Recordkeeping and Requirements

- 2) Code Citation: 89 Ill. Adm. Code 509

- 3) Section Numbers: Adopted Action:
- 509.10 New Section
 - 509.15 New Section
 - 509.20 New Section
 - 509.30 New Section
 - 509.40 New Section
 - 509.50 New Section
 - 509.60 New Section
 - 509.65 New Section
 - 509.70 New Section
 - 509.80 New Section
 - 509.90 New Section
 - 509.100 New Section
 - 509.110 New Section

- 4) Statutory Authority: Implementing and authorized by the Department of Human Services Act [20 ILCS 1305].

- 5) Effective Date of Rules: November 30, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: June 30, 2000, 24 Ill. Reg. 8719

- 10) Has JCAR Issued a Statement of Objection to these rules? No

- 11) Differences between proposal and final version: In the Table of Contents added "509.65 Process for Suspension of Funding/Cancellation of Award/Agreement".

In the definition of "Fee-for-Service", added wording "a program for which the" back to definition.

In the definition of "Grant", added "that".

In Section 509.50(a)(1), added "reasonable" after "staff".

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In Section 509.50(a)(1), after "Department", added "(i.e., records pertaining to the activities and responsibilities of the provider necessary to document the use of Department funds or responsibilities of the provider relative to the management of Department funds)".

In Section 509.50(a)(3), capitalized "When" and changed "noncompliance" to "non-compliance".

In Section 509.50(a)(4), changed ", or" to a period.

Deleted Section 509.50(a)(5) and 509.50(b).

In Section 509.50(c), changed the "(c)" to "(b)" and added after "suspension", "or the Secretary determines that the suspension should be removed in accordance with Section 509.65".

Deleted 509.50(d).

Deleted the first sentence in Section 509.60 and added "The Department".

After Section 509.60, added 509.65 as follows:

"Section 509.65 Process for Suspension of Funding/Cancellation of Award/Agreement

a) Suspension/Cancellation. The process for suspension of funding pursuant to Section 509.50 and cancellation pursuant to Section 509.60 is as follows:

1) Notice. The provider shall be notified, in writing, by the Department of the action taken, the reason for the action, and the effective date of the action. The notice shall be sent by certified or registered mail.

2) Request for Review. The provider shall have 7 days from the receipt of the notice, as determined by the certified or registered mail receipt, to request a review of the suspension/cancellation action by the Secretary of the Department and to provide supportive information to the Secretary as to why the action should not occur. In the event that the request and information are not submitted within the 7 day period, the Department may proceed with the suspension or cancellation.

3) Additional Information. To assist the Secretary in his/her review, the Department may request additional information from the provider or other sources. Any additional information requested from the provider must be submitted within the time period established by the Department. Failure of the provider to comply with the request for additional information in a timely manner may result in

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resolution of the issue without consideration of that information.

4) Secretary's Decision. The Secretary may delegate the responsibility for investigation of the issue and fact finding. The Secretary shall issue a final written decision as expeditiously as possible after receiving the request for review, supportive information, and any additional information requested by the Department. The Secretary's final decision to suspend funding, in part or in whole, shall indicate terms and conditions for rescinding the suspension and reinstatement of funding. The decision of the Secretary is a final decision of the agency for purpose of the Administrative Review Law [735 ILCS 5/Art. III], if applicable.

b) Cancellation of Funding.

1) Funding under this Part to a provider who is served a notice under subsection (a)(1) may be suspended summarily without opportunity to provide supportive information as provided in subsection (a)(2) if, in the Secretary's discretion, it is determined that immediate suspension is necessary because the risk of continuing funding is sufficient to seriously outweigh the general policy in favor of advance notice and the opportunity to provide supportive information. If the suspension is pending a final decision of cancellation under Section 509.60, the provider shall not incur costs chargeable to the Department after the effective date included in the notice. Opportunity to provide supportive information shall be provided according to the provisions of subsection (a)(2) following suspension pending cancellation of funding. If the Secretary finds for the provider, funding shall then be reinstated.

2) For all other actions for suspension or cancellation of funding, in whole or in part, suspension or cancellation shall occur after issuance of the Secretary's final written decision."

In Section 509.60, changed the semicolon to a comma.

In Section 509.70, changed "Fiscal/Administrative" to "fiscal/administrative".

In Section 509.70(c), added "when the Department's Fiscal/Administrative review results in findings that merit correction, the provider shall be notified in writing and given the opportunity to submit a corrective action plan".

In Section 509.80, added "A request for a waiver shall be written and addressed to the Secretary. It should identify the portion of the rule for

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which a waiver is being sought and state the reason for this request. The Department shall have 30 days after the receipt of any request for a waiver to respond. The Department's response shall be in writing".

Changed "fiscal administrative" to "fiscal/administrative".

In Section 509.80, changed "for" to "from".

In Section 509.110(a), after the period, added "Standards the Department will consider when determining whether current accreditation status will suffice include, but are not limited to, the time period since last accreditation, the continuity of provider management and board oversight (does the provider have the same management and board as when accreditation status was earned) and whether the Department has unusual or outstanding problems with the provider.".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No. The emergency rules have expired.

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Rules: This proposed rulemaking provides a uniform set of specific expectations in the area of Fiscal and Administrative Recordkeeping and Requirements for DHS's service providers. There are approximately 2000 community agencies under contract to deliver services to DHS clients. Since the inception of the Department, these agencies have been subject to a variety of administrative rule requirements regarding fiscal and administrative practices. This rulemaking, along with the amendment or repeal of current DHS rules, will provide these rules.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted rules begins on the next page:

DEPARTMENT OF HUMAN SERVICES
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TITLE 89: SOCIAL SERVICES
CHAPTER XX: DEPARTMENT OF HUMAN SERVICES

PART 509
FISCAL/ADMINISTRATIVE RECORDKEEPING
AND REQUIREMENTS

Section	Purpose
509.10	Definitions
509.15	Allowable/Unallowable Costs
509.20	Fiscal Requirements/Management
509.30	Accounting Requirements
509.40	Funding Suspension
509.50	Cancellation of Award/Agreement
509.60	Process for Suspension of Funding/Cancellation of Award/Agreement
509.65	On-Site Fiscal/Administrative Reviews
509.70	Administrative Requirements
509.80	Compliance with Life Safety Standards and Requirements
509.90	Prompt Payment Act
509.100	Accreditation
509.110	

AUTHORITY: Implementing and authorized by the Department of Human Services Act [20 ILCS 1305].

SOURCE: Adopted by emergency rulemaking at 24 Ill. Reg. 9250, effective June 14, 2000, for a maximum of 150 days; emergency expired November 10, 2000; adopted at 24 Ill. Reg. _____, effective _____.

Section 509.10 Purpose

General - This Part applies to all agencies providing services to the Department and its clients. This Part applies to all Department services and funds, including matching funds, if required as a prerequisite to receiving Department funds. The rule establishes minimum standards for fiscal and administrative recordkeeping. Individual programs and offices within the Department may establish additional requirements specific to their area. In the event of a conflict between this Section and program requirements, the more restrictive interpretation will apply. This Part may not be modified or waived unless provided for within the rule or unless necessary to comply with federal/State laws, regulations, or executive or administrative orders, or unless they are in violation of a valid judicial order or decision.

Section 509.15 Definitions

"Accreditation" - means a process establishing that a program complies with nationally recognized standards of care set by one of the following:

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Accreditation Manual for Hospitals (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 1993);

Manual on Agency Accreditation (Council of Accreditation of Services for Families and Children (COA), 520 Eighth Avenue, Suite 2202B, New York, New York 10018, 1993);

Mental Health Standards (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 1993);

Standards for Services for People with Developmental Disabilities (The Council on Quality and Leadership in Supports for People with Disabilities (The Council), 100 West Road, Suite 406, Towson, Maryland 21204, 1990);

Standards Manual for Organizations Serving People with Disabilities (Commission on Accreditation of Rehabilitation Facilities (CARF), 101 North Wilmot Road, Suite 500, Tuscon, Arizona 85711, July 1992).

"Agency" - means the individual or organization with whom the Department has a contract/agreement for services. The term Provider is synonymous with agency.

"Arm's Length Transaction" - means a transaction between two parties, with neither party having the ability to control or exercise significant influence over the other party in the making or implementing of financial and operational decisions.

"Day" - means a calendar day.

"Deemed Status" - means an agency has been accredited by an approved accrediting body as identified in Section 509.110. The Department may deem the agency to be in substantial compliance with all or part of Sections 509.30 and 509.80 at the sole discretion of the Department. Deemed status, however, may be nullified by a finding by the Department that the agency is in substantial non-compliance with one or more of the designated Sections of this Part.

"Department" - means the Illinois Department of Human Services.

"Fee-for-Service" - means a program for which the payments are made on the basis of a rate, unit cost or allowable cost incurred and are based on a statement or bill as required by the Department. Payments made as a fee-for-service are not subject to the Illinois Grant Funds Recovery Act [30 ILCS 705].

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"Grant" - means a program that receives all or part of the funding in advance of the actual delivery of services. This includes prorated prospective payments and payments made by the Department on an estimated basis or any other basis when the Department does not know the actual amount earned by the provider. This does not include advance payments made under the authority of Section 9.05 of the State Finance Act [30 ILCS 105/9.05]. All funds paid as a grant are subject to the Illinois Grant Funds Recovery Act [30 ILCS 705].

"Secretary" - means the Secretary of the Illinois Department of Human Services.

Section 509.20 Allowable/Unallowable Costs

Allowable/Unallowable Costs - Costs associated with Department programs are assumed to be allowable unless they are specified as unallowable by other Parts of Department rules, or by federal regulation or by individual program policies or directives of the Department.

a) Expenses reimbursable from Department funds:

1) In general, expenses meeting all of the following criteria are reimbursable from Department funds if the expenses are:

- A) Necessary and related to the provision of program services;
- B) Reasonable to the extent that a given cost is consistent with the amount paid by similar agencies for similar services;
- C) Not specified in subsection (b) of this Section as not reimbursable; and
- D) Not illegal.

2) All expenses that can be identified to a specific Department-funded program shall be charged directly to that program. Expenses not directly identifiable to a Department-funded program shall be allocated to all benefitting programs, both Department-funded and other programs. Providers are required to maintain a cost allocation plan, in accordance with Section 509.40(c), if they receive more than one source of funding or operate more than one program.

3) Research expenses, if prior written approval is received from the Department, Program evaluation expenses are not considered research expenses.

b) Expenses not reimbursable from Department funds, unless prior written authorization is received from the Department:

- 1) Compensation for members of the agency's governing body. This does not include reimbursement for travel or other agency related business expenses incurred by these members;
- 2) Expenses related to entertainment of persons other than individuals who receive services through a Department program;
- 3) Individual staff or agency association dues are not reimbursable except for the following situations:

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- A) Dues for group purchasing relationships for the exclusive purpose of cost saving on purchases.
- B) Dues for membership that provide agency staff with professional training and resources necessary to provide services funded by the Department;
- 4) Costs of attending professional meetings; e.g., association meetings and conventions are not allowable except for the portion of costs related to activities to enhance or improve services funded by the Department. (Costs for staff attendance at in-service training seminars and workshops can be reimbursed.);
- 5) Fund-raising expenses;
- 6) Bad debts;
- 7) Charity and grants (The cost of employee educational assistance can be reimbursed.);
- 8) The following types of interest expenses:
- A) Interest on funds borrowed for investment purpose;
- B) Interest on funds borrowed to create more than two months of working capital;
- C) Interest on funds borrowed for the personal benefit of any person;
- D) Interest on funds borrowed without a prior time-limited written agreement with the Department for the purchase of land, buildings and/or equipment for future expansion, until such assets are actively used in support of program services;
- E) Interest in excess of the current market rate paid to individuals or organizations in less than "arm's length" transactions;
- F) Interest charges on intra-agency fund loans, e.g., interest recorded in the capital fund on cash loaned to the operating fund;
- G) Interest expense to the extent that interest income was realized by investment of excess operating funds (i.e., interest expense must first be offset against interest income) and any remaining interest expense is eligible for reimbursement from Department grant funds;
- 9) The use of Department funds to develop commodity or equipment inventories. The usage of commodity inventories and the depreciation on fixed assets are expenses that are eligible for reimbursement from Department funds;
- 10) Depreciation on fixed assets acquired with Department funds;
- 11) Cost of production of a work program. When the product of a Department-funded work program is saleable, the expenses of individual's wages and fringe benefits and of material costs are not reimbursable from Department funds;
- 12) In-kind contributions;
- 13) Alcoholic beverages;
- 14) The portion of the cost of automobiles furnished by the

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- organization related to personal use by employees, including transportation to and from work, is unallowable as a fringe benefit or indirect cost;
- 15) Costs of fines, penalties, legal services, resulting from or in relation to the failure of the provider to comply with federal, state, and local laws and regulations, are unallowable, except when incurred as a result of compliance with specific provisions of a Department award or program or instructions in writing from the Department;
- 16) Goods or services for personal use or purchased at less than an "arm's length" transaction for an amount greater than the fair market value;
- 17) The cost associated with lobbying any elected official of local, state or federal government is unallowable, including:
- A) Expenses incurred in attempts to influence the outcome of any federal, state, or local election, referendum or initiative;
- B) Expenses incurred in attempts to influence the introduction, enactment, or modification of federal or state legislation; and
- C) Expenses incurred in connection with legislative liaison activities when such activities are carried on in support of, or in preparation for, unallowable lobbying. Cost associated with providing technical and factual information on a topic directly related to the performance of a program funded by the Department, through hearing testimony, statement or letters to elected officials or representative body, are not considered lobbying cost and are allowable;
- 18) Relocation cost of provider employees, except in the following situations:
- A) The move is for the benefit of the employer;
- B) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer; and
- C) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses;
- 19) Gratuities;
- 20) Political contributions;
- 21) Related party transactions except for the following situations:
- A) When the goods and services purchased are consistent with fair market value; and
- B) There is evidence of approval in the minutes of the governing body;
- 22) Costs associated with goods or services paid in a "conflict of interest" situation.

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- a) The agency shall be managed in a manner consistent with sound fiscal standards. The agency shall maintain written policies and procedures regarding its fiscal activities, including but not limited to payroll, purchasing, cash management, relevant fee schedules, contracts and risk management.
- b) An agency is required to show proof that the governing body has approved a budget at least annually. If the budget approved by the governing body indicates deficits for Department-funded programs and/or for the agency as a whole, this should be documented in the minutes of the governing body meeting. The governing body is expected to fulfill its statutory responsibility.
- c) If the agency has the responsibility for the management of funds for the individuals it serves, such funds shall be accounted for on an individual basis. Funds of an individual served by the agency may not be converted for use by the agency. The use of these funds is restricted to the direct needs and support of the individual.
- d) An agency that assesses fees/co-payments to individuals for services shall maintain a written policy for billing and collection of fees/co-payments. This policy will include a system for billing individual's, with appropriate financial assistance based on the ability of the individual or the individual's responsible relative to pay. The system shall also provide a record of charges and a method of collecting third party payments.
- e) No agency shall require an individual or family member to make cash or in-kind contributions, or to provide unpaid services to the agency, beyond the fee schedule specified in subsection (d) of this Section. No agency shall suggest, imply, or give reason to believe that access to initial or continued service is contingent on, or in anyway related to, voluntary contributions by an individual or family member. Provision of service in Department-funded programs shall not be denied on the basis of the individual's inability or ability to pay unless the Department requires fees/co-payments as part of the eligibility for services. Such required fees/co-payments must comply with subsection (d) of this Section.
- f) An agency is permitted to establish and maintain reserve funds. However, the establishment of or addition to a reserve fund is not permitted from grant funds.

Section 509.40 Accounting Requirements

- a) Each agency shall establish and maintain an accounting system in accordance with generally accepted accounting principles (GAAP).
- b) Accounting transactions shall be properly classified, adequately documented and recorded in appropriate books of original entry (journals), and posted to general ledgers on a monthly basis.
- c) For programs funded by the Department, expenses shall be recorded by specific program. Expenses for all other programs may be booked on total. Expenses that cannot appropriately be charged to one or more

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- d) All fiscal records shall be maintained for at least five years after the end of the fiscal year to which they relate. If need for them still remains, because of unresolved audit issues, litigation or for similar reasons, related records must be retained until the matters are completely resolved. Failure to maintain adequate records to document the expenditure of DHS funds creates a presumption in favor of the Department for recovery of the funds.
- e) All depreciation shall be computed on the straight line basis. The agency shall clearly identify in its depreciation schedule any capital assets acquired with Department grant funds.
- f) The Department may establish additional accounting requirements for specific grants or programs. Agencies receiving such grants or receiving funds for such programs shall comply with those special requirements.

Section 509.50 Funding Suspension

- a) The Department may suspend funds to the provider for any of the following reasons:
 - 1) Denying Departmental staff reasonable access to records required under this Part or any other applicable rule of the Department (i.e., records pertaining to the activities and responsibilities of the provider necessary to document the use of Department funds or responsibilities of the provider relative to the management of Department funds);
 - 2) Failure to implement mutually agreed upon, written corrective actions that resulted from findings and recommendations related to a Departmental initiated review. Providers will be given a reasonable amount of time to implement corrective actions. Normally this would be three to six months;
 - 3) When the Department has information, either from Department fiscal/administrative reviews or from an independent audit, that leads to a reasonable conclusion that the provider is in substantial non-compliance with generally accepted accounting principles or is otherwise unable to protect and account for Department funds;
 - 4) Non-compliance with the signed contract between the Department and the provider.
- b) During the period of suspension, funds earned by the provider will continue to accrue and will be released by the Department once the provider complies with the conditions that caused the funding suspension or the Secretary determines that the suspension should be removed in accordance with Section 509.65. Release of funds is

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contingent on the Department's authority to pay for service (e.g., reimbursement for a prior fiscal year after the close of the lapse period would be outside the Department's authority).

Section 509.60 Cancellation of Award/Agreement

The Department may cancel the award/agreement for any of the following reasons:

- a) Substantial or material breach of the agreement;
- b) Failure to implement a mutually agreed upon, written corrective action plan within the reasonable period of time, when the corrective action was necessary to remedy serious and substantial deficiencies and weaknesses in the provider's fiscal and administrative practices;
- c) Documentation of fraudulent or criminal activity, on the part of the provider, by either the Department or other governmental or investigative bodies;
- d) Determination by the Department, based on a founded allegation, that the provider was responsible for abuse or neglect of a client in the provider's care; or
- e) Failure to take reasonable measures to protect Department funds from misappropriation, embezzlement, or conversion for uses not approved by the Department.

Section 509.65 Process for Suspension of Funding/Cancellation of Award/Agreement

a) Suspension/Cancellation. The process for suspension of funding pursuant to Section 509.50 and cancellation pursuant to Section 509.60 is as follows:

- 1) Notice. The provider shall be notified, in writing, by the Department of the action taken, the reason for the action, and the effective date of the action. The Notice shall be sent by certified or registered mail.
- 2) Request for Review. The provider shall have 7 days from the receipt of the notice, as determined by the certified or registered mail receipt, to request a review of the suspension/cancellation action by the Secretary of the Department and to provide supportive information to the Secretary as to why the action should not occur. In the event that the request and information are not submitted within the 7 day period, the Department may proceed with the suspension or cancellation.
- 3) Additional Information. To assist the Secretary in his/her review, the Department may request additional information from the provider or other sources. Any additional information requested from the provider must be submitted within the time period established by the Department. Failure of the provider to comply with the request for additional information in a timely manner may result in resolution of the issue without consideration of that information.

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4) Secretary's Decision. The Secretary may delegate the responsibility for investigation of the issue and fact finding. The Secretary shall issue a final written decision as expeditiously as possible after receiving the request for review, supportive information, and any additional information requested by the Department. The Secretary's final decision to suspend funding, in part or in whole, shall indicate terms and conditions for rescinding the suspension and reinstatement of funding. The decision of the Secretary is a final decision of the agency for purpose of the Administrative Review Law [735 ILCS 5/Art. III], if applicable.

b) Cancellation of Funding.

- 1) Funding under this part to a provider who is served a notice under subsection (a)(1) may be suspended summarily without opportunity to provide supportive information as provided in subsection (a)(2) if, in the Secretary's discretion, it is determined that immediate suspension is necessary because the risk of continuing funding is sufficient to seriously outweigh the general policy in favor of advance notice and the opportunity to provide supportive information. If the suspension is pending a final decision of cancellation under Section 509.60, the provider shall not incur costs chargeable to the Department after the effective date included in the notice. Opportunity to provide supportive information shall be provided according to the provisions of subsection (a)(2) following suspension pending cancellation of funding. If the Secretary finds for the provider, funding shall then be reinstated.
- 2) For all other actions for suspension or cancellation of funding, in whole or in part, suspension or cancellation shall occur after issuance of the Secretary's final written decision.

Section 509.70 On-Site Fiscal/Administrative Reviews

- a) The Department shall conduct periodic onsite fiscal/administrative reviews of providers. The purpose of the reviews are:
 - 1) Assess compliance with the requirements of this Part; and/or
 - 2) Follow up on corrective actions and findings from previous reviews. Fiscal/administrative reviews may be conducted as independent reviews or in conjunction with other Department on-site activity. The Department will make reasonable efforts to combine fiscal/administrative reviews with other Department reviews to minimize disruption to the provider.
- b) The provider shall make available to the Department all records necessary to complete the review.
- c) When the Department's fiscal/administrative review results in findings that merit correction, the provider shall be notified in writing and given the opportunity to submit a corrective action plan. The provider shall provide written corrective actions, if requested by the

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Department, in response to findings and recommendations resulting from a fiscal/administrative review.

- d) The Department may at its option release the final report and associated documents to individuals and organizations other than the provider. Reasons for the release may include but are not limited to: freedom of information requests, as part of a criminal investigation, in response to a request from another government agency, or in response to a court order.

Section 509.80 Administrative Requirements

The Department requires that all providers of services be able to demonstrate compliance with the following administrative activities. In those instances where these requirements are not appropriate due to the size of the agency or its legal status (e.g., not-for-profit, for-profit) the Department will consider written requests for a waiver of the specified requirement. A request for a waiver shall be written and addressed to the Secretary. It should identify the portion of the rule from which a waiver is being sought and state the reason for this request. The Department shall have 30 days after the receipt of any request for a waiver to respond. The Department's response shall be in writing.

- a) The organization's bylaws, policies and procedures should be current. These should be reviewed and approved by the governing body of the provider and should address issues related to good business practice. Other information that should be available includes, but is not limited to, the following:

- 1) A current organization chart.
- 2) A list of board members and their term of office. Employees of the provider and immediate family members of provider employees may not serve as members of the board unless written permission is received from the Department. Vacancies on the board should be filled in a timely fashion. Individuals serving on the board must be able to objectively discharge their duties and may not engage in activities that could create a conflict of interest.
- 3) Minutes of the board meetings. The board should meet at least quarterly.
- 4) Specific written policies on:
 - A) Conflict of interest;
 - B) Fee policies and fee schedules;
 - C) Unusual incidents (i.e., sexual assault, sexual harassment, abuse, neglect, death, physical injury, missing person, theft, assault, criminal conduct).
- b) Proof of incorporation status.
- c) Copies of the following reports, if applicable:
 - 1) Annual Report to the Internal Revenue Service (Return of Organization Exempt from Income Tax Form 990 or 990-EZ);
 - 2) Annual Report to the Attorney General (Charitable Organization - Form AG 990-IL).

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- d) A comprehensive, written set of personnel policies that at a minimum address the following:

- 1) Policies concerning the hiring, evaluating, and discipline of staff (including termination);
- 2) Policies on nondiscrimination in hiring or employment on the basis of race, color, age, national origin, gender, religion, or handicap;
- 3) Requirements for license, registration or certification by the State, if required;
- 4) Requirements for a written job description listing duties and responsibilities;
- 5) Requirements for an annual written evaluation;
- 6) Method of performing background checks for paid staff as required by local, State or federal law or regulation; and
- 7) Policies on sexual harassment that identify employee's rights and the procedure used to file a complaint.

Section 509.90 Compliance with Life Safety Standards and Requirements

All program facilities shall be in compliance with applicable State licensure requirements and local ordinances with regard to fire, building, zoning, sanitation, health, and safety requirements.

Section 509.100 Prompt Payment Act

The provisions of the Prompt Payment Act apply to this Part. This Part does not constitute a waiver of the provider's rights to recover a penalty for late payment as specified in the Act.

Section 509.110 Accreditation

- a) Providers demonstrating current accreditation status under either the Standards for Services for People with Developmental Disabilities (Council), Standards Manual for Organizations Serving People with Disabilities (CARF), Council on Accreditation of Services for Families and Children (COA), Mental Health Standards (JCAHO), or the Accreditation Manual for Hospitals (JCAHO) may be deemed to be in compliance with all or part of Sections 509.30 and 509.80 at the sole discretion of the Department. Standards the Department will consider when determining whether current accreditation status will suffice include, but are not limited to, the time period since last accreditation, the continuity of provider management and board oversight (does the provider have the same management and board as when accreditation status was earned) and whether the Department has unusual or outstanding problems with the provider.
- b) Demonstration of current accreditation shall be the responsibility of the provider.
- c) If the provider's accreditation status changes for any reason, the

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provider shall notify the Department of that change within 30 days after the effective date following the change.

- d) The Department may review records of the provider subject to accreditation.

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- 1) Heading of the Part: General Administrative Provisions

- 2) Code Citation: 89 Ill. Adm. Code 10

- 3) Section Numbers:
10.230 Adopted Action:
10.410 Amended
Amended

- 4) Statutory Authority: Implementing Article I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. I through IX and 12-13].

- 5) Effective Date of Amendments: November 30, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: August 4, 2000 (24 Ill. Reg. 11466)

- 10) Has JCAR Issued a Statement of Objection to these amendments? No

- 11) Differences between proposal and final version: No changes were made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will these amendments replace emergency amendments currently in effect? No

- 14) Are there any amendments pending on this Part: No

- 15) Summary and Purpose of Amendments: These proposed amendments revise confidentiality of case information provisions.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

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The full text of adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 10
GENERAL ADMINISTRATIVE PROVISIONS
SUBPART A: APPLICABILITY AND DEFINITIONS

Section	
10.101	Incorporation by Reference
10.110	Applicability
10.120	Definitions
10.130	Assistance Programs
10.140	Assistance Program Restrictions

SUBPART B: RIGHTS AND RESPONSIBILITIES

Section	
10.210	Rights of Clients
10.220	Nondiscrimination
10.225	Grievance Rights of Clients
10.230	Confidentiality of Case Information
10.235	Case Records
10.250	Reporting Change of Circumstances
10.263	Reporting Child Abuse/Neglect
10.268	Reporting Elder Abuse/Neglect
10.270	Notice to Client
10.280	Right to Appeal
10.281	Continuation of Assistance Pending Appeal
10.282	Time Limit for Filing an Appeal
10.283	Examining Department Records
10.284	Child Care
10.290	Voluntary Repayment of Assistance
10.295	Correction of Underpayments
10.300	Recovery of Assistance
10.310	Estate Claims
10.320	Real Property Liens
10.330	Filing and Renewal of Liens
10.340	Foreclosure of Liens
10.350	Release of Liens
10.360	Personal Injury Claims
10.370	Convictions of Fraud - Eligibility
10.380	Single Conviction of Fraud - Administrative Review Board

SUBPART C: APPLICATION PROCESS

Section	
10.410	Application for Assistance
10.415	Local Office Action on Application for Public Assistance

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- 10.420 Time Limitations on the Disposition of an Application
 10.430 Approval of an Application and Initial Authorization of Financial Assistance
 10.438 General Assistance Approval Provisions
 10.440 Denial of an Application

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9515, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 15515, effective November 26, 1997; amended at 22 Ill. Reg. 19816, effective November 1, 1998; amended at 23 Ill. Reg. 6944, effective June 1, 1999; amended at 24 Ill. Reg. 7856, effective May 16, 2000; amended at 24 Ill. Reg. 18153, effective _____.

SUBPART B: RIGHTS AND RESPONSIBILITIES

Section 10.230 Confidentiality of Case Information

- a) For the protection of clients, any information about a client or case is confidential and shall be used only for purposes directly related to the administration of the assistance programs, except as provided in subsections (d) and (e) of this Section. The following shall be considered as included in the administration of the programs:
- 1) the establishment of a client's initial or continuing eligibility for public assistance;
 - 2) the establishment or the extent of an individual's need for financial assistance, medical assistance or other services; and
 - 3) the establishment of procedures assuring the health and safety of the client.
- b) Use of information for commercial, personal, or political purposes is specifically prohibited.
- c) Local office staff shall inform all agencies and governmental departments to whom information is furnished that this material is confidential and must be so considered by the agency or governmental department.
- d) Temporary Assistance for Needy Families and General Assistance TANF and General Assistance case records shall be made available upon request to the officers of any court or law enforcement agency, and to other persons or agencies authorized by any court. In particular, case records may be made available to a law enforcement agency to determine the current address of a recipient for whom they have an outstanding arrest warrant. Information shall also be disclosed to the Illinois State Scholarship Commission pursuant to its investigation or audit of a delinquent student loan or monetary award. Information may be exchanged among the Illinois Department of Public Aid, Department of Human Services, and Department of Revenue to verify

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sources and amounts of income and for other purposes directly related to the administration of the Illinois Public Aid Code and of the Illinois Income Tax Act. The provisions of this Section, as they apply to applicants and recipients of assistance programs, shall be operative only to the extent that they do not conflict with any federal law or regulation governing federal grants to the State for such programs.

e) Food Stamps

- 1) For the protection of food stamp households, use or disclosure of individual or case information obtained from the household is restricted to the following:

- A) persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act of 1977 (7 USC 2011 et seq.) or regulations;
- B) persons directly connected with other federal or federally aided, or State means-tested assistance programs;
- C) Illinois State agencies involved in investigations of reports of child abuse or neglect, including the Department of Children and Family Services;
- D) employees of the Comptroller General's Office of the United States for audit examination;
- E) local, State or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act of 1977 or regulations. The written request shall identify the official making the request and the authority to do so; the violation being investigated; and the identity of the person on whom the information is requested; and
- F) State and local law enforcement officers for the current address of clients who are fugitive felons or probation/parole violators. A fugitive felon is a person fleeing to avoid prosecution or to avoid incarceration as a result of his or her involvement in a felony case. A person who has escaped from a correctional facility is a fugitive felon. The current address of clients shall be disclosed only to properly identified (i.e., law enforcement badge and/or identification card) State and local law enforcement officers who:

- i) provide the Department with the name and social security number of the client; and
- ii) satisfy the requirements of 45 CFR 205.50(a)(v)(A) through (C) (rev. 10/01/1999).

The client shall not be advised of the disclosure of individual or case information.

- 2) If a written request to review materials in the case record is submitted by a responsible household member, the household's currently authorized representative, or a person acting in the household's behalf, the material and information in the case

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record shall be made available for inspection during normal business hours. However, the local office may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge or the nature or status of pending criminal prosecutions.

- d) The current address of clients who are fugitive felons or probation/parole violators shall be disclosed to State and local law enforcement officers without client consent. For cash assistance, a fugitive felon is a person fleeing to avoid prosecution, to avoid giving testimony, or to avoid incarceration as a result of his or her involvement in a felony case. For food stamps, a fugitive felon is a person fleeing to avoid prosecution or to avoid incarceration as a result of his or her involvement in a felony case. A person who has escaped from a correctional facility is a fugitive felon. The current address of clients shall be disclosed only to properly identified local law enforcement badge and/or identification card State and local law enforcement officers who:
- i) provide the Department with the name and social security number of the client, and
- 2) satisfy the requirements of 45 CFR 205.50(a)(1)(A) (E)(1994): The client shall not be advised of the disclosure of such information.

(Source: Amended at 24 Ill. Reg. 181.008, effective 1/1/94)

SUBPART C: APPLICATION PROCESS

Section 10.410 Application for Assistance

- a) An application is a signed request for assistance on a Department of Human Services (Department) form which has been completed to the best of the client's knowledge and ability.
- b) The application must contain an original signature or signatures. If the application does not contain an original signature or signatures, the local office shall return the application to the sender to obtain the original signature or signatures.
- c) The application must be signed by the applicant with the following exceptions:
- 1) When a conservator has been appointed for the applicant, the conservator must sign the application.
 - 2) When the applicant is physically or mentally unable to sign the application, the application may be signed by someone acting responsibly on behalf of the applicant.
 - 3) When application is made on behalf of a child, the child's caretaker must sign the application.
 - 4) When the applicant has appointed an authorized representative

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- with the Department. (An authorized representative is a person authorized by the applicant to act on his or her behalf.)
- d) Application for medical assistance may be made on behalf of a deceased person. In order for payment to be made by the Department for the funeral and burial expenses of the decedent, the completed application must be received in the local office not more than 30 calendar days after the individual's death, excluding the day on which death occurred, unless delay in receipt of the form occurred through no fault of the individual applying.
- e) The applicant may be assisted by the Department and by individuals of the applicant's choice in completing the application.
- f) The date of application shall be the date a completed original application is received by the local office serving the area of the State in which the applicant lives, with one exception: for applications completed by pregnant women and children under age 18 at a disproportionate share hospital or federally qualified health center, the date the application is signed by the applicant shall be the date of application.

(Source: Amended at 24 Ill. Reg. _____, effective 1/1/94)

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1) Heading of the Part: Grants2) Code Citation: 59 Ill. Adm. Code 1033) Section Numbers: Adopted Action:

103.25	Repeal
103.30	Repeal
103.50	Amended
103.60	Repeal
103.90	Repeal
103.100	Repeal
103.110	Repeal
103.165	Repeal
103.190	Repeal
103.210	Amended

4) Statutory Authority: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].5) Effective Date of Amendments: November 30, 20006) Does this rulemaking contain an automatic repeal date? No7) Does these amendments contain incorporations by reference? No8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: June 30, 2000, 24 Ill. Reg. 872110) Has JCAR Issued a Statement of Objection to these amendments? No11) Differences between proposal and final version: none12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will these amendments replace emergency amendments currently in effect?
No. Emergency rules have expired.14) Are there any amendments pending on this Part: No

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15) Summary and Purpose of Amendments: This proposed rulemaking is part of the Department of Human Services actions to provide a uniform set of rules in the area of Fiscal/Administrative Recordkeeping and Requirements for DHS's service providers. There are approximately 2000 community agencies under contract to deliver services to DHS clients. Since the inception of the Department, these agencies have been subject to a variety of administrative recordkeeping and requirements. This repeal of these current DHS rules is needed to implement the common DHS rule.16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICESPART 103
GRANTS

SUBPART A: SYSTEM DESIGN

Section

- 103.10 Purpose
- 103.11 Definitions
- 103.15 Incorporation by reference
- 103.20 Geographic service area
- 103.25 Agency governance (Repealed)
- 103.30 Conflict of interest (Repealed)
- 103.40 Community operation of programs (Repealed)
- 103.50 General program requirements
- 103.60 Fiscal management (Repealed)
- 103.65 Programs eligible for grants
- 103.70 Special organizational structures
- 103.80 Monitoring and evaluation

SUBPART B: OPERATIONAL PROCEDURES

Section

- 103.90 Fiscal requirements (Repealed)
- 103.95 Grant negotiation process
- 103.100 Accounting requirements (Repealed)
- 103.110 Allowable/non-allowable expenses (Repealed)
- 103.120 Audits
- 103.130 Department review and hearing process
- 103.140 Budget application (Repealed)
- 103.150 Agency plan
- 103.160 Grant agreement and addenda
- 103.165 Accreditation (Repealed)
- 103.170 Agency plan compliance
- 103.180 Prerequisites for disbursement of funds
- 103.190 Interruption of disbursement and grant cancellation (Repealed)
- 103.200 Revenue/expense reports (Repealed)
- 103.210 Reallocation and lapsed funds

AUTHORITY: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

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SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9361, effective July 21, 1982, for a maximum of 150 days; emergency expired December 19, 1982; adopted at 7 Ill. Reg. 1788, effective February 2, 1983; amended at 7 Ill. Reg. 9304, effective July 27, 1983; amended at 10 Ill. Reg. 10572, effective June 1, 1986; amended at 10 Ill. Reg. 10568, effective September 1, 1986; emergency amendment at 16 Ill. Reg. 2643, effective February 1, 1992, for a maximum of 150 days; emergency expired on June 30, 1992; amended at 17 Ill. Reg. 10282, effective July 1, 1993; amended at 21 Ill. Reg. 8282, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; emergency amendment at 22 Ill. Reg. 12176, effective June 24, 1998, for a maximum of 150 days; emergency expired November 20, 1998; amended at 22 Ill. Reg. 22390, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 9263; effective June 14, 2000, for a maximum of 150 days; emergency expired November 10, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: SYSTEM DESIGN

Section 103.25 Agency governance (Repealed)

a) Governing-body

Each agency which is owned or operated by any corporation, association, or unit of local government shall have a governing body in which is vested authority and responsibility for the organization, management, control, and operation of the agency and all programs, services, facilities and residences which it administers.

b) Consumer representation

Each agency shall have provisions for obtaining input from consumers and/or consumer representatives to the governing body.

(Source: Repealed at 24 Ill. Reg. _____, effective _____.)

Section 103.30 Conflict of interest (Repealed)

The agency shall adhere to current Illinois statutes regarding conflict of interest and adopt a written policy concerning conflict of interest. Illinois statutes regarding conflict of interest include, but are not limited to, the General Not-for-Profit Corporation Act of 1986 (805 ILCS 105) and the Illinois Purchasing Act (30 ILCS 505).

(Source: Repealed at 24 Ill. Reg. _____, effective _____.)

Section 103.50 General program requirements

Agencies funded by the Department shall meet the following general program requirements for all funded services:

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a) Service setting

Services shall be provided in the setting most appropriate to the needs of the individual. This may include the individual's home, the agency, or the community. All settings shall be used innovatively in order to reach the target populations.

b) Recordkeeping

1) Cumulative case records including an individualized service plan shall be maintained for each person.

2) The individualized service plan shall state the goals ~~goals~~ for each individual. The individual shall be afforded the opportunity and encouraged to participate in goal/objective selection. Goals/objectives shall include timeframes specified by the agency's professional staff, in consultation with the individual and relevant collaterals. "Individualized service plan", as used herein, refers to and is equivalent to "individual treatment plan" and "individual habilitation plan".

c) Behavior management and human rights review

Each agency is required to establish or ensure a process for the periodic review of behavior intervention and human rights issues involved in the individual's treatment and/or habilitation. Agencies required to have behavior intervention and human rights review policies and procedures under licensure or certification standards shall continue to comply with those standards.

d) Abuse and neglect

Each agency shall have and use a process for reporting and handling instances of abuse and neglect in accordance with applicable standards, regulations and laws.

e) Admission to programming

1) Grant agencies shall not discriminate in the admission to and provision of needed services to individuals on the basis of race, color, sex, religion, national origin, ancestry, or disability.

2) Admission policies and procedures shall be set forth in writing and be available for review.

f) Compliance with life safety standards and requirements

All program facilities shall be in compliance with applicable State licensure requirements and local ordinances with regard to fire, building, zoning, sanitation, health, and safety requirements.

g) Personnel requirements

1) A licensed physician (MD or DO) shall assume medical and legal responsibility for medical services offered in any program, including prescription of medications.

2) All services shall be provided by appropriately trained staff, operating under the supervision of qualified clinical professionals.

h) Mandated services

1) Mandated services shall be provided according to the requirements as stated in the Department's rules at 59 Ill. Adm. Code 125, Recipient Discharge/Linkage/Aftercare.

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2) The Department shall monitor the provision of mandated follow-up monitoring services as outlined in 59 Ill. Adm. Code 125.

i) Utilization review

Utilization review is the ongoing review of services delivered, their intensity and their duration, to determine adherence to generally accepted guidelines or standards regarding the individual's assessment, eligibility for service and appropriateness of services rendered. Agencies shall engage in a utilization review process for all program services.

j) Compliance with 89 Ill. Adm. Code 509

Each agency shall comply with the Department of Human Services Fiscal/Administrative Recordkeeping and Requirements (89 Ill. Adm. Code 509).

(Source: Amended at 24 Ill. Reg. 18164, effective 1/1/00)

Section 103.60 Fiscal management (Repealed)

a) The agency shall be managed in a manner consistent with sound fiscal standards. The agency shall maintain written policies and procedures regarding its fiscal activities, including but not limited to payroll, purchasing, cash management, relevant fee schedules, contracts, and risk management. An annual budget shall be developed for each fiscal year and be approved and monitored by the governing body. If the agency has the responsibility for the management of the funds for the individuals it serves, such funds shall be accounted for on an individual basis.

(Source: Repealed at 24 Ill. Reg. 18164, effective 1/1/00)

SUBPART B: OPERATIONAL PROCEDURES

Section 103.90 Fiscal requirements (Repealed)

a) Agencies shall not be limited or restrained in the pursuit of other contracts or funding.

b) Agencies and Department staff shall formalize projected levels of expense and Department grant support for each Department-funded program through an approved agency plan. Department grant funds in excess of actual reimbursable expenses by program for the award period cannot be claimed. Any Department grant received by the agency in excess of actual reimbursable expenses, by program, is subject to recapture under the provisions of the Illinois Grant Funds Recovery Act (30-IBC-765).

c) An agency is encouraged to submit a balanced budget. The Department will accept an agency plan indicating expected deficits with

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appropriate explanation. An agency with a sufficient fund balance and sufficient working capital in its operating fund can reasonably expect to cover such deficits in the short run by using reserve funds (i.e., reducing its fund balance). The Department will not approve an agency plan indicating deficits for programs and/or for the agency as a whole without a written explanation of the agency's governing body approved plan.

All agencies with Medicaid-certified programs or components of programs shall submit Medicaid billings in compliance with the Department of Public Aid's rules at 89 Ill. Adm. Code 140 (Medical Payment), the Department's rules at 89 Ill. Adm. Code 106 (Services Charges), and 42 Chapter 47 Subchapter 6, Medical Assistance Programs (42 CFR 430 through 489 (1996)).

Fees for services may be established as cost-based, as usual and customary fees for service, or as competitive fees based on the local marketplace fees for service.

An agency which assesses fees to individuals for services shall maintain a written policy for billing and collection of fees. A system for billing individuals with appropriate financial assistance based on the ability of the individual or the individual's responsible relative to pay is required. The system shall also provide a record of charges and a method of collecting third party payments. With regard to sheltered workshops, fees can be applied only to the service aspects of the programs.

No agency shall require an individual or family member to make cash or in-kind contributions or to provide unpaid services to the agency beyond the fee schedule specified in subsections (e) and (f) of this Section. No agency shall suggest, imply or give reason to believe that access to initial or continued services is contingent on or in anyway related to voluntary contributions by an individual or family member.

Provision of service in Department-funded programs shall not be denied on the basis of the individual's inability or ability to pay.

An agency is permitted to establish and maintain reserve funds. However, the establishment of or addition to a reserve fund is not permitted from grant funds.

(Source: Repealed at 24 Ill. Reg. _____, effective _____.)

Section 103.100 Accounting requirements (Repealed)

a) Each agency shall establish and maintain an accounting system in accordance with generally accepted accounting principles (GAAP).

b) Accounting transactions shall be properly classified, adequately documented and recorded in appropriate books of original entry (journals) and posted to general ledgers on a monthly basis.

c) For programs funded by the Department, expenses shall be recorded by

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specific program. Expenses for all other programs may be booked in total. Expenses that cannot appropriately be charged to one or more specific programs shall be allocated on reasonable bases to the various benefiting programs, both Department funded programs and programs funded from other sources. It will be the agency's responsibility to document its program expense allocation methodology and rationale.

Each agency shall establish and maintain a separate capital fund to account for its fixed assets and related accounts. The following accounts are typically included in this fund:

- i) land, buildings and equipment (usually separate accounts for each);
- 2) Cash reserved for replacement of fixed assets;
- 3) Accumulated depreciation on buildings and equipment (usually two separate accounts);
- 4) Payables related to land, buildings and/or equipment;
- 5) Depreciation expense;
- 6) Revenues earned by capital fund assets (e.g., interest) and/or externally restricted to the capital fund (e.g., donor restricted grants or contributions);
- 7) Fund balance and
- 8) Other related accounts as appropriate.

All fiscal records shall be maintained for at least five years after the end of the fiscal year to which they relate. If need for them still remains because of unresolved audit issues or for similar reasons, related records must be retained until the matters are completely resolved. Agencies are encouraged to discuss record retention with their independent auditors prior to disposal of documents.

All depreciation for the purposes of preparing Department budgets and report shall be computed on the straight-line basis. The agency shall clearly identify in its depreciation schedule any capital assets acquired with Department grant funds.

All agency revenues not earned by capital fund assets or not restricted for capital purpose by the donors or grantors, shall be recorded in the appropriate fund using generally accepted accounting principles. All governing body approved transfers of unrestricted funds shall be shown as fund balance transfers and recorded using generally accepted accounting principles.

The Department may establish additional accounting requirements for specific grants or programs. Agencies receiving such grants or receiving funds for such programs shall comply with those special requirements. Examples of such programs are the community living arrangements (CLA) revolving fund, the emergency psychiatric services (EPS) program, the home-based support services program and the family assistance program and various Medicaid programs (i.e., Department grant funds used as match for obtaining federal funds).

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(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 103.110 Allowable/non-allowable expenses (Repealed)

- a) Expenses reimbursable from Department grant funds
- 1) In general, expenses meeting all of the following criteria are reimbursable from Department grant funds if the expenses are:
 - A) Necessary and related to the provision of program services;
 - B) Reasonable to the extent that a given cost is consistent with that amount paid by similar agencies for similar services;
 - 2) Not specified in subsection (b) of this Section, as not reimbursable; and
 - 3) Not illegal.
- 2) No--be--eligible--for--reimbursement--all--expenses--that--can--be identified to a specified Department funded program(s)--shall--be charged--directly--to--that--program(s)---Expenses--not--directly identifiable to a Department funded program(s) shall be allocated to all benefiting programs--both Department funded and other programs--in accordance with Section 103.109(c).
- b) Expenses not reimbursable from Department grant funds (those typically not directly associated with program services)
- 1) Research expenses--(this does not include program evaluation expenses);
 - 2) Compensation for members of the agency's governing body--(this does not include reimbursement for travel or other agency-related business expenses incurred by these members);
 - 3) Expenses--related--to--entertainment--of--persons--other--than individuals who--receive--mental--health--or--developmental disabilities services;
 - 4) Individual agency staff or agency association dues (dues for group purchasing relationships for the exclusive purpose of cost saving on purchases are allowable);
 - 5) Costs of attending professional meetings (e.g., association attendance at in-service training seminars and workshops);
 - 6) Fund-raising expenses;
 - 7) Bad debts and professional discounts (these should be recognized as reductions of fees for services revenue rather than as expenses);
 - 8) Charity and grants (this does not include employee educational assistance costs);
 - 9) The following types of interest expenses:
 - A) Interest on funds borrowed for investment purposes;
 - B) Interest on funds borrowed to create working capital in excess of two months operating expenses;
 - C) Interest on funds borrowed for the personal benefit of any

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- persons);
- B) Interest on funds borrowed without a prior time-limited written agreement with the Department for the purchase of land, buildings and/or equipment for future expansion until such assets are actively used in support of program services;
 - B) Interest in excess of the current market rate paid to individuals or organizations in less than arms-length transactions;
 - B) Interest charges on intra-agency fund loans (e.g., interest recorded in the capital fund on cash lent to the operating fund);
 - B) Interest expense to the extent that interest income was realized by investment of excess operating funds (i.e., interest expense must first be offset against interest income and any remaining interest expense is eligible for reimbursement from Department grant funds);
 - 10) Development of commodity or equipment inventories (the usage of commodity inventories and the depreciation on fixed assets are expenses which are eligible for reimbursement from Department grant funds);
 - 11) Depreciation on fixed assets acquired with Department grant funds;
 - 12) Work programs cost of production--When the product of a Department funded work program is salable, the expenses of individuals wages and fringe benefits and of material costs are not reimbursable from Department grant funds;
 - 13) In-kind contributions (these expenses are directly offset by the related in-kind revenues);
 - 14) Capital acquisitions--unless expressly permitted by the Department in writing (capital acquisitions include real estate buildings improvements and items of equipment with unit costs of \$500 or more);
 - 15) Establishment of or addition to reserve funds;
 - 16) Expenses which are specifically reimbursed by other grants or time and purpose restricted funding;
 - 17) Expenses of any program for which the agency has not been awarded a grant by the Department; and
 - 18) The following types of lobbying expenses:
 - A) Expenses incurred in attempts to influence the outcome of any federal, State, or local election, referendum, or initiative;
 - B) Expenses incurred in attempts to influence the introduction, enactment, or modification of federal or State legislation; and
 - C) Expenses incurred in connection with legislative liaison activities when such activities are carried on in support of or in preparation for unlawful lobbying.

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Agency notes--Expenses incurred in connection with providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement are allowable.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 103.165 Accreditation (Repealed)

- a) Agencies--demonstrating--current--accreditation--status--under--any--of--the--standards--of--the--accrediting--organizations--identified--in--the--definition--of--"accreditation"--in--Section--103.11--of--this--Part--shall--be--deemed--to--be--in--compliance--with--Sections--103.25--and--103.69--of--this--Part;
- b) Demonstration--of--current--accreditation--status--shall--be--achieved--by--submission--of--a--certificate--of--accreditation--and--most--recent--accreditation--report--by--the--agency--to--the--Department--as--part--of--the--submission--of--the--agency--plan;
- c) If--the--agency's--accreditation--status--changes--for--any--reason--the--agency--shall--notify--the--Department--of--that--change--within--30--days--after--the--effective--date--following--the--change.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 103.190 Interruption of disbursement and grant cancellation (Repealed)

- a) The--Department--may--take--action--to--interrupt--disbursements--to--agencies--for--fiscal--reporting--infractions--and/or--agency--operations--which--are--contrary--to--Department--policy--stated--herein--and--to--cancel--the--grant--agreement--funds--withheld--by--the--Department--during--suspensions--continue--to--accrue--to--the--account--of--the--agency--and--will--be--disbursed--upon--resolution--of--the--infraction--or--deficiency--in--the--case--of--cancellation--funding--will--not--be--available--and--will--not--accrue--for--the--period--during--which--the--grant--agreement--is--canceled;
- b) The--sanctions--outlined--herein--for--suspension--and--cancellation--will--be--undertaken--only--after--the--Department--has--made--a--reasonable--effort--to--reach--an--acceptable--resolution--with--the--agency;
- c) The--following--are--occasions--for--cancellations--or--suspensions:
- 1) Being--year--end--certified--audit--report
- A) This--type--of--fiscal--infraction--exists--when--an--agency--does--not--submit--a--year--end--certified--audit--report;
- B) The--agencies--which--have--not--submitted--audited--financial--statements--for--the--prior--grant--year--within--106--days--after--the--end--of--their--fiscal--year--will--be--given--advance--notice--by--registered--letter--from--the--Department's--Office--of--Internal--Audits--that--Department--audit--requirements--must--be--met--within--120--days--after--the--end--of--their--fiscal--year--Copies--of--the--

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- letter--will--be--sent--to--appropriate--Department--staff--the--Office--of--Internal--Audits--will--send--a--registered--letter--from--the--Secretary--to--the--agency--suspending--current--year--grant--funding--120--days--after--the--end--of--the--agency's--fiscal--year--for--agencies--not--in--compliance--with--audit--requirements--for--the--prior--year--Copies--of--the--letter--will--be--sent--to--appropriate--Department--staff;
- B) Any--audit--filing--extension--for--the--prior--grant--year--approved--by--the--Office--of--Internal--Audits--shall--be--considered--advance--notice--to--the--agency--of--the--Department's--intention--to--suspend--current--year--grant--funding--upon--expiration--of--the--filing--extension;
- B) Upon--expiration--of--any--approved--extension--for--fulfilling--the--prior--year's--audit--requirements--the--Office--of--Internal--Audits--will--send--a--registered--letter--from--the--Secretary--to--the--agency--suspending--current--year--grant--funds--as--of--the--date--of--the--expired--extension;
- 2) Non-compliance--with--repayment--procedures--for--under--expended--grant--funds--This--type--of--fiscal--infraction--exists--when--the--agency--fails--to--refund--unexpended--funds--from--a--previous--grant--award--or--other--suspensions--All--other--actions--regarding--suspension--of--grant--funds--are--taken--by--the--Secretary--Suspension--of--disbursement--shall--remain--in--effect--until--such--time--as--specified--conditions--are--met--in--unusual--and--severe--circumstances--e.g.,--abuse--or--neglect--of--an--individual--the--Secretary--may--immediately--suspend--grant--funds--pending--an--investigation;
- d) Actions--for--suspension--require--written--notification--to--the--agency--and--other--appropriate--funding--bodies--if--applicable--at--least--15--days--before--such--action--goes--into--effect--Such--notice--shall--specify--reasons--for--which--action--is--taken--and--the--conditions--under--which--suspension--will--be--ended--the--date--when--the--grant--will--be--automatically--canceled--if--the--conditions--of--suspension--are--not--satisfied--shall--also--be--specified--All--parties--shall--be--notified--when--the--suspension--of--the--grant--is--ended;
- e) Cancellation--of--grant--agreement
- 1) The--Department--or--agency--on--30--days--written--notice--of--intention--to--do--so--may--terminate--all--or--part--of--the--grant--agreement--Further--the--Department--by--written--notice--may--immediately--terminate--all--or--any--part--of--the--grant--agreement--on--determination--that--State--funds--have--been--used--or--are--being--used--for--purposes--other--than--those--which--are--the--basis--of--the--grant--agreement--Immediate--termination--is--intended--to--apply--whenever--there--is--a--determination--of--fraud--misappropriation--or--misuse--in--obtaining--or--expending--Department--funds--or--in--certain--cases--of--unusual--incidents--such--as--abuse--or--neglect--of--an--individual;
- 2) Cancellation--of--a--grant--remains--in--effect--until--such--time--as--specified--conditions--are--met--Pending--will--not--be--available--for--the--period--during--which--a--grant--is--canceled;

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- 3) Cancellation of a grant means that the grant is thus reduced from the original award for each calendar month during which cancellation is in effect in accordance with the agency plan as approved by the Department. Cancellation requires written notification to the agency and other appropriate funding bodies if applicable, 30 days before such action goes into effect. Such notice shall specify the reasons for which the action is taken and the conditions under which reinstatement will occur. All parties will be notified when the cancellation period is ended.
- 4) If the conditions under which the grant is canceled have not been rectified by the end of the fiscal year, no new grant award will be made for the ensuing fiscal year until such time as all conditions are satisfactorily met for the prior fiscal year. At the time that the Department and the agency determine that all conditions from the prior year have been met, the agency shall submit required information in accordance with Section 103.150(f), and execute a signed grant agreement prior to recommencement of funding.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 103.210 Reallocation and lapsed funds

a) Reallocation of funds

Agencies may transfer funds between programs within the agency plan guidelines distributed by the Department. Agencies desiring to reallocate funds in excess of agency plan guidelines must request this reallocation in writing prior to the expiration of the grant agreement. Authorization to transfer these funds within the agency plan guidelines distributed by the Department will be allowable, with justification, unless the Department indicates to the contrary within 30 days after notification. The agency must request this reallocation by registered mail prior to the end of the fiscal year.

b) Lapsed funds

At the expiration of the grant agreement, Department funds not expended as outlined in the effective agency plan are considered lapsed. These lapsed funds should be calculated by comparing the operating expenses to the budget using the following method:

- 1) Department funds allocated to a given program must be spent within a given program. The total accrued expense of Department reimbursable items must be compared with the total grant dollars allocated to the program. If the total Department reimbursable expenses are greater than the grant allocation by program, there is no lapse. If the grant allocation is greater than the total Department reimbursable expense by program, then the difference is the amount of the lapse, and the amount for which the Department may seek reimbursement.

- 2) Notice of lapse--The Department shall prepare and send to the

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- agency a notice of lapse as soon as possible after submission of the agency's independent audit.
- c) Agreement to lapse
- 1) Voluntary lapse--The agency may indicate in writing that no plan to use the underexpenses of funds prior to the expiration of the grant agreement exists, and the grant award may be reduced accordingly.
- 2) Automatic lapse--If no justification or certification is received and approved prior to the expiration of the grant agreement, the funds will be automatically lapsed.
- d) Reconciliation of operating expenses to funds
- 1) A final reconciliation will occur with the submission of the year end certified audit report.
- A) Overpayment of any amount over \$1.00 (allowance for rounding off) must be reimbursed to the Department.
- B) Payment by an agency to the Department shall be as outlined in the Illinois Grant Funds Recovery Act.
- C) The Department will recover funds through the offset of subsequent year grant or purchase of care funds. If the offset of subsequent year funding is not possible due to discontinuation of funding, the agency shall be required to satisfy grant recovery by submitting a check, draft or money order.
- B) Any check, draft or money order shall be made payable to the Department of Human Services.
- 2) Each agency shall, after being provided by the Department with notice and an opportunity for a Department hearing, repay to the Department amounts found not to have been expended in accordance with the grant agreement, the agency plan and this part, if such repayment is not made the Department shall, after providing the agency with notice and an opportunity for a hearing, offset such amounts through any or all collection procedures provided for in the Illinois Grant Funds Recovery Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

2) Code Citation: 89 Ill. Adm. Code 686

<u>Section Numbers:</u>	<u>Adopted Action:</u>
686.900	Amendment
686.910	Amendment
686.920	Amendment
686.930	Amendment
686.940	Amendment
686.APP. A	Added

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) Effective Date of Amendments: November 30, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 14, 2000, 24 Ill. Reg. 10036

10) Has JCAR Issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: At the end of the Table of Contents, added "Appendix A Acceptable Human Service Degrees".

In Section 686.910(e)(4), changed "Subsection" to "subsection".

In Section 686.920 (b)(3), added "(see Appendix A)" after "field".

In Section 686.930(a)(4), added a comma after "visiting".

In Section 686.930(c), struck "Office of Rehabilitation Services" and added "ORS".

In Section 686.930(e)(1), added "or" after the semicolon.

In Section 686.940(c)(2), added "and Prevention" after "Control".

At the end of the rulemaking, added Appendix A as follows:

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"Section 686.APPENDIX A Acceptable Human Service Degrees

The following degrees will be accepted as human service degrees:

Child, Family and Community Services
Early Childhood Development
Guidance and counseling
Home Economics - Child and Family Services
Human Development Counseling
Human Service Administration
Human Services
Master of Divinity
Pastoral Care
Pastoral Counseling
Psychiatric Nursing
Psychiatry
Psychology
Public Administration
Rehabilitation Counseling
Social Science
Social Services/Social Work
Sociology"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking amends the sections concerning Case Management Services to Persons with AIDS. It removes the requirement that requires a case management team composed of a social worker and a Registered Nurse be used for AIDS Waiver case management functions. This amendment replaced this with the requirement that the case management be provided by a single case manager, either a social worker or in health care, which have been successful in stabilizing the health of any person living with AIDS and a determination to focus case management on the support services needed by the persons with AIDS to live in their homes and the community.

16) Information and questions regarding these adopted amendments shall be directed to: Ms. Susan Weir, Bureau Chief

Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East, 3rd Fl.
Springfield, Illinois 62762
(217) 785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section

686.10 Personal Assistant (PA) Requirements
686.20 Services Which May Be Provided by a PA
686.25 Criminal Background Check
686.30 Annual Review of PA Performance
686.40 Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section

686.100 Adult Day Care (ADC) Provider Requirements
686.110 Services Which Must Be Provided by ADC Providers
686.120 Compliance Review of ADC Providers
686.130 Appeal of Compliance Review for ADC Providers
686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section

686.200 Homemaker Service Provider Requirements
686.210 Services Which Must Be Provided by Homemaker Agencies
686.220 Compliance Review of Homemaker Agencies
686.230 Appeal of Compliance Review for Homemaker Agencies
686.240 Payment for Homemaker Services
686.250 Financial Reporting of Homemaker Services
686.260 Unallowable Costs for Homemaker Service
686.270 Minimum Direct Service Worker Costs for Homemaker Services
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section

686.300 Electronic Home Response Services (EHRS) Provider Requirements
686.310 Services Which Must Be Provided by EHRS Providers
686.320 Minimum Specifications for EHRS Equipment
686.330 Compliance Review of EHRS Providers
686.340 Appeal of Compliance Review for EHRS Providers
686.350 Rate of Payment for EHRS Services

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SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager

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686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

APPENDIX A Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section 686.900 Program Overview

The Department of Human Services-Office of Rehabilitation Services (DHS-ORS) (BHS) shall enter into agreements with agencies to provide case management

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services to persons diagnosed with AIDS, which includes persons with human immunodeficiency virus (HIV) infection, who are eligible for services provided by the AIDS Medicaid waiver. For geographical areas in Illinois in which case management agencies are not located, case management shall be provided by DHS-ORS BHS Home Services counselors, utilizing licensed home health nurses as needed to comply with the services offered and the requirements contained in Section 686.910(b), (c), (d) and (e).

(Source: Amended at 24 Ill. Reg. 13.174, effective)

Section 686.910 Case Management Provider Responsibilities**a) Case Management Terms**

1) The case management agency (hereafter referred to as provider) shall receive customer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case manager ~~management team~~ EMT to each customer.

2) The case manager EMT shall have full responsibility for the determination of eligibility, including assessment, development of plans of care, and arrangement and implementation of services to be provided. There shall be two levels of case managers:

~~EMTs~~ EMTs ~~provisional providers~~ provisional case managers ~~EMTs~~ EMTs are those who have not achieved a competency score of 98% or greater for the on-site case reviews done by the HSP AIDS unit, per Section 686.930(d). Assessments, service plans and reassessments completed by case managers EMTs may be implemented without consultation with the HSP AIDS Unit. provisional case managers ~~EMTs~~ shall submit all developed plans to the HSP AIDS Unit for approval. Approval of the plan will be based on a review to determine that: the Determination of Need Assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan does not place the customer's health and safety at risk; the plan is cost effective compared to comparable institutional care; and the plan has been approved by the customer's physician.

3) The case manager shall have the option of using a Registered Nurse to review and advise the case manager on the health aspects of the assessment and reassessment and to act as a liaison with hospital discharge planner, physician, home health agencies and other medical provider agencies.

b) The case manager EMT shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

2) development of a care plan and implementation (89 Ill. Adm. Code

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684);

3) reassessment of level of care at least every six months for those cases in formal eligibility, three months for those cases that have been presumptively determined eligible for interim services (89 Ill. Adm. Code 684.80), or at such time when the customer's financial or physical condition or need for services changes;

4) networking/coordinating/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);

5) assisting the customer when personal assistance problems develop. Documentation of these problems and the case management team's responses will be kept in the customer's case file;

6) counseling and advocacy;

7) acting as inter-agency liaison (e.g., with other DHS programs, vendors, hospitals);

8) contacting customer a minimum of three times per month, one contact being a face-to-face visit;

9) maintaining and updating customer records; and

10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for AIDS Waiver

1) Within 10 working days (exceptions being 2 working days for prescreening referrals from cooperating hospitals for interim/emergency services, 5 working days for all other prescreening for interim/emergency services) after receipt of a referral, the case manager EMT shall complete an individual's eligibility determination for the AIDS Waiver program.

2) The case manager EMT shall determine customer eligibility for the AIDS Waiver by completing an assessment from a home visit or while the applicant is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the case manager EMT will utilize the HSP Determination of Need Assessment (89 Ill. Adm. Code 682). The case manager EMT shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and what resources are available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

4) Notice of eligibility must be mailed to the HSP AIDS Unit within ten working days after the date on which a completed application is received by the case management contracting agency.

d) The case manager EMT will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP. Service Plan

e) If the assessment demonstrates the need for intermediate care facility (ICF), skilled nursing facility (SNF), or hospital care

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because of the disability of AIDS/HIV, the case manager CMW shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

- 2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the case management team's locations and the HSP AIDS Unit. Closed cases will be retained in the HSP Central Office.

- 3) The service plan shall be approved by the customer's physician. If the plan is not approved by the customer's physician, it cannot be implemented and the customer cannot be served under the AIDS Waiver.

- 4) If implementation of services is delayed beyond required time limits in subsection Subsection (c) of this Section, the case manager CMW must inform the HSP AIDS Unit and assist the customer to obtain an alternative provider.

- f) Records of contact with the customer will be entered and maintained in the customer's confidential case records. All contacts, verbal or written, with or on behalf of a customer shall be documented in a confidential case record. The case manager CMW is responsible for obtaining consents for the release of information as necessary and when required by law or regulation (Confidentiality of Records in 42 USC 8536-290 dd-2, the AIDS Confidentiality Act (410 ILCS 305) and 89 Ill. Adm. Code 505 Confidentiality of Information).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 686.920 Provider Staffing Requirements, Qualifications, and Training

- a) Each provider agency shall designate an individual who will be responsible for the administration of the case management program.

- b) ~~The CMW shall consist of:~~

- i) ~~A full-time registered nurse (RN) and a full-time social worker,~~

or

- 2) ~~A half-time registered nurse and one full-time and one half-time social worker.~~

bc) The qualifications for case managers shall be as follows:

- 1) A Registered Nurse, with a current license and a Bachelor's degree in nursing, social work, social sciences or counseling or four years of case management experience; or ~~the RN shall be licensed pursuant to the Illinois Nursing Act of 1987--1225--theBS 657-~~

- 2) ~~A~~ the social worker with ~~shall hold a minimum of a bachelor's degree in either social work, social sciences or counseling. A Bachelor's of Social Work or a Master's of Social Work from a~~

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school accredited by any organization nationally recognized for the accreditation of schools of social work is preferred; or
3) ~~An individual with a Bachelor's Degree in a human services field (see Appendix A) with a minimum of 5 years of case management experience.~~

- cc) In addition, it is mandatory that:

- 1) ~~it is preferred, but not required, that the RN and the case manager social worker have a broad knowledge of community resources and networking, case management, and home care; and~~
2) The case manager have experience in working with:

- A) ~~addictive and dysfunctional family systems;~~
B) ~~racial and ethnic minorities;~~
C) ~~homosexuals and bisexuals;~~
D) ~~persons with AIDS; and~~
E) ~~substance abusers (e.g., drug users).~~

- d) ~~it is preferred, but not required, that the RN and the social worker have experience in working with:~~

- 1) ~~addictive and dysfunctional family systems;~~
2) ~~racial and ethnic minorities;~~
3) ~~homosexuals and bisexuals;~~
4) ~~persons with AIDS; and~~
5) ~~substance abusers (e.g., drug users);-~~

- de) Each case manager CMW shall have no more than 30 customers. For case managers CMWs who that serve fewer than 30 customers, the full-time requirements may be met proportionately (e.g., 15 customers would require a 1/2 time case manager CMW).

- ef) Annually, each case manager ~~member of the CMW~~ shall undergo a minimum of 12 hours of in-service training that:

- 1) shall be furnished by the Provider; and
2) shall be relevant to the provision of services to persons with AIDS (e.g., infectious disease control procedures, sensitivity training, and updates on information relating to treatment procedures).

- g) ~~Roles of the social worker and nurse shall be differentiated and defined:~~

- i) ~~Social Worker role--completing, with the cooperation of the nurse, the assessment and any necessary reassessments; networking; counseling; weekly contact; advocacy; and other duties not covered by the nurse. The social worker is the primary member of the CMW.~~

- 2) ~~Nurse role--to review and advise the CMW on the health aspects of the assessment and reassessments and to act as a liaison with hospital discharge planner; physician; home health agencies; and other medical provider agencies.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 686.930 Monitoring and Liability of Provider

- a) The HSP AIDS Unit shall monitor the provider to assure compliance with this Subpart by:
- 1) reviewing and approving the assessment (Section 686.910(c)). The review will be conducted pursuant to the DHS' Home Services Program (89 Ill. Adm. Code 682), the service plan and payments for services;
 - 2) reviewing provisional case managers EMTs as set forth in subsection (d) of this Section;
 - 3) reviewing, on an annual basis, a random sample 10% of the cases handled in the preceding 12 months or two cases, whichever is greater;
 - 4) The Supervisor of the AIDS Unit visiting, at least annually, all contracting case management agencies.
- b) The HSP AIDS Unit shall monitor the service plans of customers served by a case manager EMT to ensure that:
- 1) The case manager EMT is monitoring the customer's case at least monthly by carrying out at least one face-to-face visit and two other contacts with the customer;
 - 2) The case manager EMT is reassessing the service plan at least every six months for those cases in formal eligibility and every three months for those cases which have been presumptively determined eligible;
 - 3) Each of the reassessments undertaken by the case manager EMT is complete and accurate;
 - 4) Any amendments to the service plan are consistent with the findings of the reassessment;
 - 5) The service plan remains cost effective (i.e., the cost of the service plan is equal to or less than the State's hospital costs); and
 - 6) The service plan is approved by the customer's physician.
- c) DHS,ORS, Office-of-Rehabilitation--Services, Central Office quality assurance staff shall:
- 1) monitor the quality of the reviews conducted annually;
 - 2) provide case reviews of selected cases Statewide; and
 - 3) tabulate the findings from all reviews to determine accuracy levels, Statewide need for training and individual training needs.
- d) All case-managers-of-Provisional provisional case managers EMTs will work toward meeting the case manager EMT standards within six months after receiving the HSP AIDS Unit's Case Management Training. Complete case manager EMT status will be granted when six case file reviews attain a competency score of 98-100% using the review process described in this subsection (d).
- 1) The HSP AIDS Unit nurse will review three case files within three months after from the end date of the provisional case manager's completion of the Case Management Training for the case manager

DEPARTMENT OF HUMAN SERVICES

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- EMT. The case manager EMT's-Case-Manager will be present and have the case manager Training Manual.
- 2) The nurse will review each case file using the HSP AIDS Unit case file review quality assurance form.
 - 3) Using the Case Management Training Manual, the nurse will discuss each deficiency with the case manager.
 - 4) A corrective action plan will be developed by the nurse for the case manager to resolve all deficiencies in the case files.
 - 5) The case manager will implement the corrective action plan and complete all items prior to the next review of case files.
 - 6) The nurse will review all files noted in the corrective action plan for compliance with case management practices.
 - 7) The above process will continue until the cases reviewed for the case manager meet a 98-100% compliance score on six case file reviews.
- e) A case manager EMT shall return to provisional status when any of the following events occur:
- 1) A review of files, per this Section, results in a score of 89% or less; OR
 - 2) Within the last year, HSP staff has made five requests for materials which were not submitted on time; 7-OR
 - 3) The--EMT--has-made-an-assessment-or-reassessment-visit-in-the-home without-both-members-of-the-EMT-present-for-the-visit-
- Prior to the initiation of action to return a case manager EMT to provisional status, the Provider case-manager of the case manager EMT will be sent a letter outlining the issues. The Provider case-manager will have 10 days to respond. The case manager EMT will be returned to provisional status unless the Provider case-manager can prove the event causing the action did not occur. Once a case manager EMT is returned to provisional status he/she it must complete the measures outlined in subsection (d) of this Section.
- f) Liability
- 1) DHS shall assume no liability for actions of the provider under the Agreement.
 - 2) The provider shall agree to hold DHS harmless against any and all liability, loss, damage, cost or expenses arising from wrongful or negligent acts of the provider.
 - 3) The provider shall certify that it has maintained and will maintain liability insurance coverage. Upon request, the provider shall make available policies, certificates of insurance or current letters documenting all insurance coverage.
 - 4) The provider shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.

(Source: Amended at, " 24 Ill. Reg. 18184, effective

DEPARTMENT OF HUMAN SERVICES

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Section 686.940 Provider Compliance Requirements

In order to participate in the DHS-ORS BHS program to provide services to persons with AIDS, the provider agrees to meet the following minimum requirements that shall be reviewed by DHS annually for compliance.

- a) Organization and Administration: The provider shall make available, upon request, its articles of incorporation, or if an unincorporated association (e.g., partnerships and limited partnerships) shall provide a statement of purpose and functions, and the names and addresses of its owners, partners, or general partners.
- b) Audits: DHS reserves the right to audit all records and accounts pertinent to this Agreement at any time within five years after final completion date of the Agreement.
- c) Policies and Procedures: The provider shall have written policies approved by its governing authority (e.g., Board of Directors) and available for review by customers and purchasers of the service. Such policies shall at a minimum cover:

- 1) Service provided: Policy shall designate the type and scope of service provided. When more than one type of service is offered, there shall be a clear distinction between each type provided.
- 2) Personnel Policies: Policies shall cover salary schedules, hours of work, sick leave, provision for handling employee grievances, and requirements for attendance at work conferences and training sessions. There shall be written job descriptions identifying required qualifications and duties for each title. Policies shall also include the Centers for Disease Control and Prevention (CDC) recommendations for health care workers for provision of services to persons with AIDS and the Illinois Statutes regarding AIDS, including the AIDS Confidentiality Act [410 ILCS 305].

- d) State and Federal Statutes

- 1) All providers shall be subject to compliance with Illinois Statutes governing conflict of interest (Section 50-13 ~~11-1-11-5~~ of the ~~The~~ Illinois Procurement Code ~~Purchasing--Act~~ [30 ILCS 500505/50-13 ~~11-1-11-5~~]).
- 2) All providers shall agree to comply with the Civil Rights Restoration Act of 1987 P.L. 100-259), Title VI of the Civil Rights Act of 1964 (42 USC 8-5-6; 2000d), Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 8-5-6; 794), the Illinois Human Rights Act [4775 ILCS 5] ~~11-1-1017-et-seq-7~~, the Constitution of the United States, the 1970 Constitution of the State of Illinois and any laws, regulations or orders, State or Federal, that prohibit discrimination on the basis of race, color, sex, religion, national origin, ancestry, age, marital status, inability to speak or comprehend the English language, physical or mental handicaps, or unfavorable discharge from military service.
- 3) The provider shall comply with Section 290ee-3 of the Federal Drug Abuse Confidentiality Act (42 U.S.C. 290 ee 3) and the AIDS

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NOTICE OF ADOPTED AMENDMENTS

Confidentiality Act (410 ILCS 301).

- e) Non-compliance: If the provider is not in compliance with the requirements of this Subpart, corrective actions up to and including termination of the contract shall be taken.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 686. APPENDIX A Acceptable Human Service Degrees

The following degrees will be accepted as human service degrees:

Child, Family and Community Services
 Early Childhood Development
 Guidance and counseling
 Home Economics - Child and Family Services
 Human Development Counseling
 Human Service Administration
 Human Services
 Master of Divinity
 Pastoral Care
 Pastoral Counseling
 Psychiatric Nursing
 Psychiatry
 Psychology
 Public Administration
 Rehabilitation Counseling
 Social Science
 Social Services/Social Work
 Sociology

(Source: Added at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Standards and Requirements for Pre-Admission Screening and Participating Mental Health Centers

2) Code Citation: 59 Ill. Adm. Code 258

3) Section Numbers:
 258.100 Repealed
 258.110 Repealed
 258.120 Repealed
 258.130 Repealed
 258.200 Repealed
 258.210 Repealed
 258.220 Repealed
 258.230 Repealed
 258.240 Repealed
 258.250 Repealed
 258.260 Repealed
 258.280 Repealed
 258.300 Repealed
 258.310 Repealed
 258.320 Repealed
 258.330 Repealed
 258.340 Repealed
 258.350 Repealed
 258.360 Repealed
 258.370 Repealed
 258.380 Repealed
 258.390 Repealed
 258.400 Repealed
 258.410 Repealed
 258.500 Repealed
 258.510 Repealed
 258.520 Repealed
 258.530 Repealed
 258.540 Repealed

4) Statutory Authority: Implementing Sections 3-207, 3-208, 3-300, 3-400, 3-405, 3-502, 3-504, 3-601, 3-603, 3-606, 3-607, 3-702, 3-704, 3-706, 3-810, 3-811, 3-812, 3-902 and 3-909 [405 ILCS 5/3-207, 3-208, 3-300, 3-400, 3-405, 3-502, 3-504, 3-601, 3-603, 3-606, 3-607, 3-702, 3-704, 3-706, 3-810, 3-811, 3-812, 3-902 and 3-909] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

5) Effective Date of Repealer: November 30, 2000

6) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 1, 2000, 24 Ill. Reg. 13101
- 10) Has JCAR Issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Repealers: Public Act 91-0726, effective June 2, 2000, repeals P.A. 88-484. Public Act 88-484 created the participating mental health centers and required the development of this rule to implement the Act. With the passage of P.A. 91-0726 and the repeal of the provisions that authorized the participating mental health centers, the Department is repealing the rule that implemented P.A. 88-484.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Access to Facilities for Treatment, Storage, or Disposal of Low-Level Radioactive Waste
- 2) Code Citation: 32 Ill. Adm. Code 609
- 3)

<u>Section Number:</u>	<u>Adopted Action:</u>
609.10	Amendment
609.20	Amendment
609.30	Amendment
609.40	Amendment
609.50	Amendment
609.60	Amendment
609.65	Repeal
609.70	Amendment
609.90	Amendment
609.100	Amendment
Table A-1	Amendment
Table A-2	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/8 and 9], the Radioactive Waste Tracking and Permitting Act [420 ILCS 37], the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1985 (P. L. 99-240).
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: August 18, 2000 (24 Ill. Reg. 12156)
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? JCAR did not issue an agreement letter for this rulemaking.
- 13) Will these amendments replace an emergency amendment currently in effect?

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF ADOPTED AMENDMENT

NO

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will: (1) delete the special reporting requirements; (2) eliminate tracking of out-of-state shipments of Illinois waste unless destined for location in Illinois; (3) eliminate the Transaction Reference Number as a requirement prior to shipment; (4) establish the Transaction Reference Number as a receipt of shipment information; and (5) modify the EDT file format and data dictionary.

16) Information and questions regarding these adopted amendments shall be directed to:

Louise Michels
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF ADOPTED AMENDMENT

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

PART 609

ACCESS TO FACILITIES FOR TREATMENT, STORAGE, OR DISPOSAL OF LOW-LEVEL
RADIOACTIVE WASTE

Section	Purpose and Applicability
609.10	Definitions
609.20	Prohibited Activities
609.40	Permit and Transaction-Reference-Number Requirements and Application Procedures
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APPENDIX A

Electronic Data Transmission

TABLE A-1 Detailed listing of data elements

TABLE A-2 Data element definitions

AUTHORITY: Implementing and authorized by Sections 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/8 and 9], the Radioactive Waste Tracking and Permitting Act [420 ILCS 37], the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240).

SOURCE: Adopted at 20 Ill. Reg. 13944, effective October 11, 1996; amended at 24 Ill. Reg. 13944, effective 11/1/96.

Section 609.10 Purpose and Applicability

- a) This Part establishes one of the systems for the regulation of the use of facilities in the State of Illinois to:
- 1) Collect, store, treat or dispose of low-level radioactive waste;
 - 2) Maintain a data base as to the location of all such waste in the State of Illinois; and
 - 3) Implement some of the requirements, prohibitions and mandates of

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the Compact, the Radioactive Waste Enforcement Act, the Radioactive Waste Tracking and Permitting Act and the Illinois Low-Level Radioactive Waste Management Act.

b) This Part establishes a system for monitoring and tracking shipments of low-level radioactive waste into, out of or within the State of Illinois for the purpose of tracking the points of origin of the shipments, as transported to the places of destination of the shipments.

c) This Part establishes an enforcement and verification system directed to the movements of low-level radioactive waste into, out of or within the State of Illinois ~~and shipments containing low-level radioactive waste generated within the State of Illinois.~~

d) This Part applies to any generator, broker, owner or operator of any treatment or disposal facility, or to any person who sends low-level radioactive waste into, within or out of the State of Illinois ~~and to any facility which ships any low-level radioactive waste generated within the State of Illinois.~~

e) This Part does not apply to:

- 1) Shipments of low-level radioactive waste that are sent or transported through the State of Illinois but do not originate in the State of Illinois and are not accepted for treatment, storage, collection or disposal at a location in the State of Illinois;
- 2) Naturally occurring radioactive materials, unless required to be licensed by the Department;
- 3) Radioactive materials exempt from licensing by the Department based upon regulatory or statutory determinations; and
- 4) Radioactive materials authorized for disposal under 32 Ill. Adm. Code 340.1030 and 340.1050.

f) This Part does not relieve any person from compliance with any other state, Commission or Federal requirements, including transport or licensing requirements, pertaining to the packaging, transportation, disposal, storage or delivery of low-level radioactive materials or wastes.

g) This Part does not relieve any person from compliance with any order, directive or rule of the Central Midwest Interstate Low-Level Radioactive Waste Commission, pursuant to its authority under the provisions of the Central Midwest Radioactive Waste Compact Act [45 ILCS 140].

(Source: Amended at 24 Ill. Reg. 18194, effective

Section 609.20 Definitions

Except where otherwise indicated, or where the context clearly requires a different definition, the following terms shall have the following meanings for purposes of this Part.

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"Acceptance" means taking possession of Waste. Waste is not "accepted" for purposes of this Part, if it is delivered to a Facility, and the owner or operator of the Facility refuses to take possession and promptly so informs both the person sending the Waste and the Department's Tracking System Operator of such refusal.

"Broker" means any person who takes possession of low-level radioactive waste for purposes of consolidation and shipment. [420 ILCS 20/3]

"Carrier" means a person who transports Low-Level Radioactive Waste into, out of or within the State of Illinois.

"Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"Consolidated Waste" means Waste from more than one generator that has been consolidated into a single shipment of Waste. However, separate containers of waste would not be classified as "consolidated waste".

"Department" means the Illinois Department of Nuclear Safety.

"Dispose" or "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose. [45 ILCS 141/15]

"Electronic Data Transmission" (EDT) means files that are comprised of a variety of record types, which are used based on the type and source of the shipment of low-level radioactive waste (original shipment versus a consolidated shipment, in or out-of-state shipment, etc.). These files are ASCII files with pipe delimited records.

"Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, that is used or is being developed by the owners or operators for the generation, collection, treatment, storage or disposal of low-level radioactive waste. [45 ILCS 141/15]

"Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity. [420 ILCS 20/3]

"Low-Level Radioactive Waste (LLRW)" or "Waste" means radioactive waste not classified as (1) high-level radioactive waste, (2)

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transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e(2) of the Atomic Energy Act (42 USC 2021). This definition shall apply notwithstanding any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control. [45 ILCS 141/15]

"Permit" means the license authority issued by the Department upon application which authorizes the person identified by that number to ~~apply-for-a-transaction-Reference-Number-from-the-Department-to~~ either send Waste to a Facility for treatment, storage, consolidation or disposal or to receive Waste at a Facility for treatment, storage, consolidation or disposal.

"Person" means any individual, corporation, business enterprise or other legal entity, public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise or legal entity. [45 ILCS 141/15]

"Region" means the geographical area of the State of Illinois and the Commonwealth of Kentucky. [45 ILCS 141/15]

"Regional Facility" means any Facility as defined in the Radioactive Waste Compact Enforcement Act that is located in Illinois and established by Illinois pursuant to designation of Illinois as a host state by the Commission.

"Shipper" means a person, whether located within or outside of the Region that offers Waste for transportation into, within or out of the State of Illinois.

"Storage" means the temporary holding of radioactive material for treatment or disposal. [45 ILCS 141/15]

"Tracking System Operator" or "TSO" means the operator of the electronic data collection and transmission system which is used by the Department to track the movement of Waste into, out of and within the State of Illinois. These ministerial duties are performed under the direction and control of the Department.

"Transaction Reference Number" means a number issued by the TSO under this Part that acknowledges the shipper's submittal of, and the TSO's acceptance as complete of, shipment specific information required under this Part which authorizes a person to send Waste to a Facility for treatment, storage, consolidation or disposal.

"Transport" means the movement of Waste into, within or out of the State of Illinois.

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"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume. [45 ILCS 141/15]

(Source: Amended at 24 Ill. Reg. 14, effective)

Section 609.30 Prohibited Activities

a) Unless the shipment of the Waste is specifically authorized by the Central Midwest Interstate Low-Level Radioactive Waste Commission under a Transaction-Reference-Number issued to a valid Permit-holder in accordance with this Part or unless the requirement for a transaction-Reference-Number is exempted in accordance with the provisions of this Part, no person shall:

1) Send Waste from any point located outside of the State of Illinois to any Facility located within the State of Illinois, regardless of its origin.

2) Send any Waste, regardless of origin, from within the State of Illinois to any Facility in the State of Illinois.

23) Accept at any Facility in the State of Illinois any Waste from outside the Region, regardless of origin.

4) Accept any Waste, regardless of origin, from within the State of Illinois at any Facility in the State of Illinois.

35) Deposit at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

46) Accept at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

57) Send any Waste from the State of Illinois outside the State of Illinois, other than Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

60) Dispose of any Waste in the State of Illinois other than at a Regional Disposal Facility.

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- b) No person who provides as a service the arranging for the collection, transportation, treatment, storage or disposal of waste from outside the region shall dispose of any waste, regardless of origin, at a facility in Illinois, unless specifically authorized by a valid transaction reference number issued in accordance with this Part.
- be) No person shall send to any facility in Illinois or accept at any facility in Illinois any waste that has as its place of origin the Disposal Facility located at Maxey Flats, Kentucky.
- cd) No generator, broker, facility or other person shall send or accept any waste into, out of or within the State of Illinois or accept any waste for which a transaction reference number is required under this Part without complying with the requirements of this Part, including all Department Tracking System Operator notification requirements.

(Source: Amended at 24 Ill. Reg. 181.6, effective _____)

Section 609.40 Permit and Transaction Reference Number Requirements and Application Procedures

a) Each person who ships waste into, out of or within the State of Illinois or accepts waste shall undertake an activity for which a transaction reference number is required under this Part must first apply to the Department for a Permit.

- a1) A person applying for a Permit shall submit the application to the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. The person shall provide to the Department at the time of the application the following information in writing, on paper bearing the name, current address and current telephone number of the person making the application and signed in ink by a person authorized to make the application:
- 1A) The name of a contact person for the applicant and the current address and phone number of that contact person if different from that of the applicant.

2B) The radioactive materials license number currently issued to the applicant and the name of the entity issuing the license.

3E) The name and location of the applicant's facility which would be recorded under any assigned permit.

- b2) A person shall be eligible to receive a Permit only if the person is:

1A) A generator or broker registered by the Department under Section 4 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/4];

2B) A facility licensed by the Department under Section 8 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/8];

3E) A generator, broker, treatment facility or other person located outside of the State of Illinois. The out-of-state entity must be a party to an agreement with the Compact which is in effect on the date of the Permit application, or as otherwise authorized by

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the Commission. The agreement with the Compact must provide that waste from the unaffiliated state or regional compact is currently permitted to be treated, stored or disposed of at a facility in the Region and that the Commission has not revoked the permission granted to such person, state or regional compact allowing these shipments;

4B) A generator, broker, treatment facility or other person located outside of the State of Illinois that is allowed to send waste for treatment or storage in Illinois, pursuant to an agreement entered into by the Commission;

5B) A generator, broker, treatment facility or other person located outside of the State of Illinois that is allowed to send waste for disposal in Illinois, pursuant to an agreement entered into by the Commission and approved by law in Illinois;

6P) A generator, broker, treatment facility or other person located in the Commonwealth of Kentucky; or

7G) A generator that is an agency of the United States government that is located in the Region.

c3) A generator applying for a Permit must certify to the Department in the written application for the Permit that it will make lawful and suitable arrangements for the final disposition of the waste, or that it will retrieve and reclaim physical possession of such waste in the event final disposition or storage has not been arranged.

d4) Within 14 calendar days from the receipt by the Department of the application, the Department will issue, in writing, a Permit to an eligible applicant whose application complies with all of the relevant requirements of this Section. Denial by the Department of any application within this same time period shall also be in writing, citing the reason for such action.

b7) Any person to whom the Department has issued a Permit may apply to the DSO for a Transaction Reference Number to undertake any one of the following activities:

i7) Send any waste from outside the State of Illinois to any facility within the State of Illinois so long as such waste originated from the Commonwealth of Kentucky, or from an unaffiliated state or a regional compact which has a currently enforceable agreement with the Commission permitting such activity or as authorized by the Commission;

27) Send to any regional facility in the State of Illinois any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon, provided that the forwarding of any such waste to a regional facility located in Illinois shall have received prior Commission approval;

37) Send any waste from the State of Illinois to a location outside of Illinois, provided that a Transaction Reference Number is not

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required to send waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy, as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

- 4) Dispose of any waste in the State of Illinois at a facility other than a Regional Disposal Facility, provided that any such disposal shall have received prior Commission approval.
- 5) Send any waste, regardless of origin, from the State of Illinois to any facility in the State of Illinois.
- 6) Any other activities as mentioned in Section 609-30(a) of this Part.

c) Unless otherwise expressly provided for in this Part, a Transaction Reference Number shall be required for each shipment of waste that a person sends into, within or out of the State of Illinois for collection, treatment, storage or disposal.

d) To apply for a Transaction Reference Number, an eligible person shall contact the DSO. The applicant shall provide the DSO with the information required by this Part. The Department shall have access to all of the required information generated from this application procedure.

e) A person applying for a Transaction Reference Number shall provide the DSO at the time the person applies for the Transaction Reference Number with the following information:

- 1) The name and address of the applicant and of the facility or location from which the waste will be sent.
- 2) Specific notification that the purpose of the communication is to advise the DSO of the person's intent to ship waste.
- 3) The Permit Number of the applicant.
- 4) The name or Permit Number of the facility or location to which the waste will be sent.
- 5) The name of the person who will transport said waste, if known.
- 6) The estimated shipping date.

f) The term of a Transaction Reference Number issued as authorization for a particular shipment shall not exceed 6 months from the date of issuance.

g) Upon being contacted by a person who is applying for a Transaction Reference Number, the DSO, as an agent of the Department, will:

- 1) Obtain from the person the information required by this Part. However, should an applicant fail or refuse to provide this information, the DSO shall be prohibited from issuing a Transaction Reference Number. The DSO will immediately contact the Department concerning the application, thereby allowing the Department to make a direct inquiry to the person regarding the alleged deficient information situation, and

2) Process the application for the Transaction Reference Number including verifying that the person intending to ship the waste

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and the facility to which the waste is intended to be shipped both have a valid permit issued by the Department, and

A) If the requirements of this Part have been met, issue a Transaction Reference Number and record the date and time of the issuance of the Transaction Reference Number, or

B) If either the person applying for the Transaction Reference Number or the facility or location to which the waste is to be sent does not have a valid permit, the DSO shall immediately advise the Department of such deficiency. The Department may contact the person or the facility for clarification and/or issue a written notice of denial. The notice of denial shall be dated and cite the basis for which the Transaction Reference Number was denied. The Department shall promptly issue to the person or facility a written notice by mail, notice of the refusal to issue the Transaction Reference Number and the reason for such refusal pursuant to the procedure for notice in Section 609-70(f) of this Part.

h) Each application for a Transaction Reference Number shall be deemed to constitute consent by the applicant that, in the event that the Transaction Reference Number is granted, the applicant consents and agrees to:

- 1) The designation of the Director, Department of Nuclear Safety, to be the true and lawful attorney in fact upon whom may be served all legal process in any action or proceeding by the State of Illinois against the Applicant for any violation of this Part growing out of the sending or acceptance of the waste that is the subject of the application and the agreement of the Applicant that the process against him which is so served shall be of the same legal force and validity as though served upon the Applicant personally, provided the Director or his designee sends notice of such service and a copy of the process within three calendar days to the Applicant at the address of the Applicant as shown on the application;

2) Submit to the jurisdiction of the court of competent jurisdiction in the State of Illinois, to the exclusion of all other courts of any other state, any civil or criminal legal action initiated by the State of Illinois or the Department arising out of or relating to the Applicant's use of the Transaction Reference Number issued by the Department.

3) Comply with all applicable Illinois and Federal laws and regulations as well as all provisions of the Compact and all provisions of any interregional or interstate agreement between Illinois or the Commission and the state in which the applicant is physically located.

4) Allow the Department or any agency with which the Department has an intergovernmental agreement to inspect any permitted shipment of waste from and after the time at which the waste is packaged

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for--shipment--until--such--time--as--that--Waste--is--removed--from--the packages--in--which--it--is--shipped.

- 4) A person applying for a Transaction Reference Number must disclose to the TSO in the application for the Transaction Reference Number that the person has made lawful and suitable arrangements for the final disposition, temporary storage, or physical retrieval of any Waste.
- 5) After receiving a Transaction Reference Number, no person may send into, within or out of the State of Illinois, any shipment of Waste without first complying with the requirements of the Transaction Reference Number tracking process set forth in Section 609.65 of this Part.

- 6) The issuance of a Transaction Reference Number does not relieve any person who sends or accepts Waste from outside of the State of Illinois for treatment, storage or disposal in the State of Illinois from also securing the necessary approvals from the Commission or approvals otherwise required by the applicable laws of any State.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 609.50 Waste Shipment Tracking Process Standards for issuance of Transaction Reference Number

- a) Each person sending a shipment of waste to a broker who will transport the waste to the broker's Facility in Illinois shall telefax a copy of the shipment manifest to the TSO or contact the TSO at 1-800-274-9784 and provide the TSO with the following information at the time of shipment:

- 1) Consignor name;
- 2) Consignee name;
- 3) Tractor or trailer numbers if known;
- 4) Number of containers;
- 5) For each container:

- A) The container number;
 - B) Waste type code;
 - C) Total activity and the unit of measure;
 - D) Prominent isotope;
 - E) The activity of the prominent isotope and unit of measure;
- and

- 5) Date of the shipment.

- b) Illinois brokers shall provide the TSO with an EDT file containing the information regarding the received shipment formatted and containing the information as prescribed in Appendix A of this Part. All EDT file submittals shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic database.

- c) Each person sending a shipment of waste into, within or out of the State of Illinois that is not specified in subsection (a) of this Section shall provide the TSO with an EDT file formatted and

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containing the information as prescribed in Appendix A of this Part at the time of the shipment. All EDT file submittals shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic data base.

- d) All instate receiving facilities that store waste for decay in storage shall report to the TSO the placement of waste into decay in storage according to the procedures outlined in Appendix A of this Part. The receiving facilities shall also report to the TSO when the containers are removed from the decay in storage inventory utilizing the procedures identified in Appendix A of this Part.
- e) All instate receiving facilities that process waste such that no waste, either direct or residual, is attributable back to the shipper shall report those affected containers according to the procedures identified in Appendix A of this Part.
- f) Each person needing to correct information previously provided to the TSO pursuant to this Section shall provide those corrections to the Department in writing addressed to the Chief, Division of Low-Level Radioactive Waste Management, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.

- g) If the tracking system is not functioning at the time the shipper is ready to transmit an EDT file pursuant to this Section, the shipper may proceed with the shipment and shall:
- 1) Telefax a copy of the shipment manifest to the TSO; and
 - 2) Transmit the EDT file information to the TSO when the tracking system is functional.

- a) Based upon transmitted information provided via computer, telephonic or written correspondence to the TSO, the TSO shall issue a Transaction Reference Number upon determining that the Applicant has complied with the requirements of this Part.

- 2) Activity to be authorized is not prohibited by any provision of the Compact, the Radioactive Waste Compact Enforcement Act or this Part; and
- 3) Activity has received approval from the Commission, if so required under the provisions of the Compact.
- b) No Transaction Reference Number issued under this Part shall be transferrable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 609.60 Standards for Issuance of Transaction Reference Number Special Reporting Requirements

- a) Based upon transmitted information required by Section 609.50 of this Part, the TSO shall issue a Transaction Reference Number upon determining that the:

- 1) Applicant has complied with the requirements of this Part;
- 2) Activity undertaken is not prohibited by any provision of the

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Compact, the Radioactive Waste Compact Enforcement Act or this Part.

- 3) Activity has received approval from the Commission, if so required under the provisions of the Compact; and
- 4) Information reporting requirements of this Part have been met.

b) The TSO shall issue the Transaction Reference Number to the shipper within 7 days after the receipt of information.

a) Sealed source and device manufacturers, radiopharmacies, nuclear industries, radiopharmaceutical companies, and spent fuel transportation, cask maintenance and decontamination operations located within Illinois are permitted to accept waste for treatment, collection, consolidation and storage, subject to the following conditions:

- 1) Waste may be accepted only from generators within the Region or from generators in States or compact regions whose governing bodies have agreements with the Commission that authorize such receipt of Waste; provided the generator has not had its access to the Region revoked under said agreements;

2) Waste shall not be accepted solely for the purpose of disposing of such Waste in the State of Illinois, unless the disposal of such Waste has been approved by the Commission;

3) A nuclear laundry that launders a radioactively contaminated item from outside the State of Illinois shall not dispose of the item in the State of Illinois, but shall return the item to the person who shipped it into the State of Illinois, provided that this prohibition shall not apply to process Waste, process Waste as used in this subsection shall mean Waste that is generated from the laundering process that does not remain on or a part of the laundered item;

b) Persons within and outside the State of Illinois are permitted to ship waste to sealed source and device manufacturers, radiopharmacies, radiopharmaceutical companies, nuclear laundries, and spent fuel transportation, cask maintenance and decontamination operations, subject to the following conditions:

- 1) Waste may be shipped only from generators within the Region or from generators in States or compact regions whose governing bodies have agreements with the Commission that authorize such shipments of Waste;

2) The shipment of Waste from outside the State of Illinois shall not be solely for the purpose of disposing of such Waste in the State of Illinois;

3) A person who sends a radioactively contaminated item into the State of Illinois to a nuclear laundry shall accept the return of the item;

c) No less frequently than every 120 calendar days, a Facility accepting Waste under the provisions of subsection (a) of this Section shall report the following information to the TSO:

- 1) The name of the Reporting Party;

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- 2) the date of the Reporting Party's acceptance of the waste;
- 3) the name of the Party sending the waste;
- 4) Composition or type of waste in shipment;
- 5) Volume of waste in shipment;

6) Disposition of the waste in shipment and date of disposition;

d) Information contained in subsection (c) of this Section may be reported to the TSO in a data file through electronic data transmission, provided that prior arrangements have been made with the TSO at least 90 days prior to the first electronic data transmission of such information. All such electronic data transmission shall be made in a manner that allows the TSO to incorporate said transmission into the TSO's electronic data base;

e) The special reporting requirements of this Section shall supersede any conflicting permit requirements elsewhere stated in this Part, and no Transaction Reference Number or Permit shall be necessary to send or accept Waste under this Section;

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 609.65 Transaction Reference Number and Waste Shipment Tracking Process (Repealed)

a) Any person sending a shipment of waste to a broker located in the State of Illinois who will take possession of the waste at the broker's facility shall contact the TSO at 1-800-274-9744 and provide the TSO with the following information at the time of shipment:

- 1) Transaction Reference Number;
- 2) Consignor name;
- 3) Consignee name;
- 4) Tractor or trailer numbers if known;
- 5) Number of containers;
- 6) For each container:
- A) The container number;
- B) Waste type code;
- C) Total activity and the unit of measure;
- B) Prominent isotope; and
- B) The activity of the prominent isotope and unit of measure; and

7) Date of the shipment;

b) Any person sending a shipment of waste into, within or out of the State of Illinois that is not specified in subsection (a) of this Section shall provide the TSO with an electronic data transmission file formatted and containing the information as prescribed in Appendix A of this Part at the time of the shipment. All electronic data transmission shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic data base;

c) The person sending a shipment of waste shall provide the Transaction

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Reference Number to the receiving Facility verbally or in writing at or before the time that the shipment arrives.

d) The person accepting a shipment of waste for which a Transaction Reference Number has been issued shall, within 24 hours after arrival of the shipment at the receiving Facility, report the receipt of the shipment to the WSO. In particular:

1) Illinois brokers shall provide the WSO with an electronic data transmission file containing the information regarding the received shipment formatted and containing the information as prescribed in Appendix A of this Part. All electronic data transmission shall be made in a manner that allows the WSO to incorporate the transmission into the WSO's electronic data base.

2) All other receiving Facilities shall contact the WSO at 1-800-274-9784 and report the Transaction Reference Number of containers and the date received.

e) All receiving Facilities rejecting a shipment or a container at the time of shipment receipt shall immediately notify the WSO at 1-800-274-9784 and report the rejected container or shipment. For rejected containers, the receiving Facility shall report to the WSO the Transaction Reference Number and the rejected container number. For a rejected shipment, the receiving Facility shall report to the WSO the Transaction Reference Number. The destination of the rejected shipment or container shall be assumed to be the sending Facility. The sending Facility must notify the WSO within one working day of the true destination of the rejected shipment or container.

f) A receiving Facility rejecting a shipment or a container after the shipment has been reported to the WSO as received shall treat the return shipment as a new shipment complete with the reporting requirements contained in this Part.

g) All receiving Facilities that store waste for decay in storage shall report to the WSO the placement of waste into decay in storage according to the procedures outlined in Appendix A. The receiving Facilities must also report to the WSO when the containers are removed from the decay in storage inventory utilizing the procedures identified in Appendix A.

h) All receiving Facilities that process waste such that no waste, either direct or residual, is attributable back to the shipper must report those affected containers according to the procedures identified in Appendix A of this Part.

i) Upon receipt of the date file information from a person accepting a shipment of waste at a Facility for which a Permit has been issued, the WSO shall verify the following:

1) That the sending and receiving Facilities have valid permits.

2) That the shipment took place not more than 6 months after the date of issuance of the corresponding Transaction Reference Number for said shipment.

3) In the case of a consolidated shipment of waste from a broker or treatment Facility that the containers and volume amounts

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correspond with the information previously provided to the WSO from the Facility forwarding the waste.

j) The person to whom the Transaction Reference Number was issued shall immediately notify the WSO of any changes in any of the information previously provided to the WSO under Section 609.40 of this Part.

k) Any person needing to correct information previously provided to the WSO pursuant to this Section shall provide those corrections to the Department in writing addressed to the Chief, Division of Low-Level Radioactive Waste Management, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.

l) If the tracking system is not functioning at the time shipper is ready to transmit an BBT file pursuant to this Section, the shipper may proceed with the shipment and shall:

1) Telex a copy of the shipment manifest to the WSO; and

2) Transmit the BBT file information to the WSO when the tracking system is functional.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 609.70 Suspension, Revocation or Voluntary Termination of Permits and Refusal to Issue Transaction Reference Numbers

a) The Department may revoke or suspend any Permit issued under this Part, for any reason, including but not limited to any of the following conditions:

1) The individual to whom the Permit was issued is determined by the Department to no longer be alive or to have been adjudged legally incompetent.

2) The person to whom the Permit was issued, if other than an individual, is determined by the Department to no longer be legally in existence.

3) Any person eligible for a Permit pursuant to Section 609.40(b)(1) of this Part is no longer registered by the Department under Section 4 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/4].

4) Any person eligible for a Permit pursuant to Section 609.40(b)(2) of this Part is no longer licensed by the Department under Section 8 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/8].

5) The person is no longer eligible for a permit under Section 609.40(b)(3), (4) or (5) of this Part compact region or unaffiliated state in which the person eligible for a permit pursuant to Section 609.40(a)(2)(c) of this Part is located. No longer has an agreement with the Compact that allows that person's waste to be treated, stored or disposed of at a Facility in the Region.

6) Falsification of any information in an application for a Permit.

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- 7) Failure to notify the Department of any change in the information previously provided to the Department in application for a Permit.
- 8) If the Commission has revoked the permission granted to such person under any compact region or unaffiliated state agreements to treat, store or dispose of Waste at a Facility in the Region.
- 9) For any violation of the Radioactive Waste Compact Enforcement Act or for violation of any condition imposed by any approval or Interstate agreement of the Commission.
- b) ~~The Commission, as an agent of the Department, may refuse to issue any Transaction-Reference-Number as provided under this Part, for any reason, including but not limited to any of the following conditions:~~
- 1) ~~Violation of any provision of this Part, the Radioactive Waste Compact Enforcement Act, the Compact, or any approval or Interstate agreement of the Commission;~~
 - 2) ~~Failure to pay any civil penalty imposed by the Department under this Part;~~
 - 3) ~~Reissuance of any information in a Transaction-Reference Number application;~~
 - 4) ~~Any other reason as shown in subsection (f) of this Section.~~
- be) The Department shall with notify the Commission of any suspension, emergency suspension or revocation of a ~~any~~ Permit ~~and of any refusal to issue a Transaction-Reference-Number~~. In addition, all alleged violations which could affect the ~~issuance of a Transaction-Reference Number or the retention, classification or validity of a Permit shall~~ be reported to the Commission by the Department. The notification shall be in writing, on a quarterly basis, including all reported and alleged violations, as well as the particular instances in which the Department concluded that official action under this Part was either not merited or not necessary.
- d) ~~In the event that the Commission withdraws or modifies the terms of its approval to engage in an activity authorized by a Transaction-Reference-Number issued under this Part, the Department will not issue subsequent Transaction-Reference-Numbers for other later shipments which would be in conflict with the Commission's determinations previously issued. Transaction-Reference-Numbers assigned to pending shipments shall remain valid for their respective terms, unless such an interpretation would be contrary to the Commission's specific intentions.~~
- e) ~~In the event that the General Assembly of Illinois revokes any agreement entered into by the Commission that allows any activity authorized by a Transaction-Reference-Number issued under this Part, the Department will refrain from issuing any subsequent Transaction-Reference-Numbers for other shipments which would be contrary to such legislative action. Previously issued Transaction-Reference-Numbers assigned to pending shipments may remain valid for their respective remaining terms, if such action is authorized by the Illinois General Assembly.~~

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- cf) Any pending action by the Department to suspend or revoke a Permit ~~or action for the denial of a Transaction-Reference-Number~~ shall be initiated by written notice to the Permit holder or applicant, specifying the reasons for such action and the right to a hearing on the determination of the Department, pursuant to the terms of the Illinois Administrative Procedure Act [5 ILCS 100]. No suspension or revocation shall take effect prior to the issuance of a final order from the administrative hearing proceeding, except as outlined in subsection (dg) of this Section.
- dg) The Department may also issue a preliminary Summary Suspension Order against any person holding a particular Permit ~~or Transaction-Reference-Number~~ who is also subject to a pending administrative hearing which could result in the revocation or suspension of the same Permit ~~or Transaction-Reference-Number~~, provided that:
- 1) The Department finds that the public interest, safety or welfare requires such immediate action; and
 - 2) Specific, factual reasons for such emergency action are also included in the Department's written "Notice of Hearing", advising the Permit ~~or Transaction-Reference-Number~~ holder of the pending administrative proceeding.
- AGENCY NOTE: Any such subsequent hearing proceedings shall be promptly instituted and determined.
- eh) A party to whom a ~~Transaction-Reference-Number~~ Permit has been issued may voluntarily terminate the ~~Transaction-Reference-Number~~ Permit by mailing to the Department written notice that the particular authorization is being voluntarily terminated. The termination shall be effective upon receipt by the Department of said notice. The notice shall set forth the name and address of the person to whom the Permit ~~or Transaction-Reference-Number~~ was issued. Voluntary ~~termination of Transaction-Reference-Numbers shall require the:~~
- 1) ~~Transaction-Reference-Number being terminated;~~
 - 2) ~~Date of its issuance; and~~
 - 3) ~~Permit Number of the person terminating the Transaction-Reference-Number.~~
- fi) No person shall voluntarily terminate a ~~Transaction-Reference-Number~~ or a Permit if the person to whom the Permit ~~or Transaction-Reference-Number~~ has been issued has offered a shipment of Waste for transportation into, within or out of the State of Illinois and that shipment of Waste has not either been returned to the shipper or been accepted at a Facility properly authorized to dispose of that shipment of Waste.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 609.90 Exemptions

- a) Any person may apply to the Department for an exemption from the

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- requirements of this Part.
- b) A request for an exemption shall be in writing and shall state with particularity the reasons why granting such an exemption would be consistent with the provisions of this Part and the Compact. A copy of the request shall be filed with the Commission.
 - c) Exemptions shall only be granted by the Department upon an express finding by the Department that granting the exemption would be consistent with the provisions of this Part and the Compact. In making such determinations, the Department shall consider the recommendations, if any, of the Commission.
 - d) Exemptions granted under this Part may be limited in scope or duration, or may be conditional, providing that such limits or conditions are consistent with the Compact.
 - e) Any exemption granted under this Part shall not be in conflict with any provision of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20], the Radioactive Waste Tracking and Permitting Act [420 ILCS 37], the Central Midwest Interstate Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141], or the federal Low-Level Radioactive Waste Policy Amendment Act of 1985 [P.L. 99-240].
 - f) The Department shall will provide the Commission with written notice of any exemption granted pursuant to this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 609.100 Administrative Appeal and Hearing

- a) Any person may petition the Department for reconsideration of any:
 - 1) Denial by the Department to issue a Permit, ~~or refusal of the TSO to issue a Transaction-Reference-Number~~ to such person; or
 - 2) Summary suspension of a ~~Transaction-Reference-Number~~ Permit issued to such person; or
 - 3) Civil penalty imposed on such person.
- b) Such petition shall be made in writing, shall be directed to the Manager, Office of Environmental Safety, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois, 62704, and shall state concisely and with particularity the reasons for the petition. The Department shall ~~will~~ provide a copy of the petition to the Commission.
- c) Any person petitioning the Department for reconsideration has the right to a hearing before the Department. The request for such a hearing ~~shall~~ must be filed with the petition. Such petitions shall be filed within 30 calendar days after notice of the:
 - 1) Denial of a ~~Transaction-Reference-Number~~ Permit;
 - 2) ~~Summary~~ Emergency suspension of a ~~Transaction-Reference-Number~~ Permit; or
 - 3) Imposition of a civil penalty.

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- d) Failure of a petitioner to comply with the requirements of this Part with respect to petitions for reconsideration or requests for a hearing shall be grounds for denial of the petitioner's request.
- e) All hearings under this Part, as well as administrative hearings ordered by the Department which could result in the revocation or suspension of a previously issued Permit to a person, shall be governed by the procedures set forth in the Illinois Administrative Procedure Act [5 ILCS 100] and in 32 Ill. Adm. Code 200. The Department shall ~~will~~ provide notice of these hearings to the Commission.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 609. APPENDIX A Electronic Data Transmission

Any person required under Section 609.50(b), (c), (d) or (e) 609-65(b)(7) or (8) of this Part to report shipment information to the Tracking System Operator (TSO) shall must prepare an Electronic Data Transmission (EDT) file for submittal to the TSO. This EDT file contains the pertinent information regarding the shipment in general (consignee, consignor, etc.) and the waste in detail (waste type, volume, activity, isotopes, etc.). The EDT files are ASCII files with comma delimited records. The EDT files are comprised of a variety of record types which are used based on the type and source of the shipment. The original shipment versus a consolidated shipment, in or out of state shipment, etc. The files are submitted to the TSO in electronic format via a modem over standard phone lines to a toll free telephone number.

A) EDT FILE RECORD TYPE DESCRIPTION

a) The information regarding the shipment of low-level radioactive waste (LLRW) contained in the EDT file is provided using the five different types of records. Each record type focuses on a specific aspect of the shipment. The record types are described below:

- 1) The "M" (Manifest) record contains the summary information about the waste shipment. This information is summary level information that is normally contained on the shipping papers prepared to accompany the shipment.
- 2) The "C" (Container) record contains information about the waste container. This information details for each container comprised in the shipment the contents of that container.
- 3) The "W" (Waste Type) record contains information about the waste type(s) in the container. Detailed information regarding the waste form contained in each container is provided using the "W" record.
- 4) The "I" (Isotope) record contains information about the isotopes contained in each waste type in each container. Each specific isotope contained in each waste type reported in each container is identified along with the associated activity information.
- 5) The "P" (Pointer) record contains cross reference information about each original container which has been consolidated into the current container. This record is used by a broker or processor to identify which original containers are currently packaged in a consolidated container. The use of the "P" record prevent the unnecessary report of information already contained in the TSO data base.
- b) The record types described in subsection (A)(a) of this Appendix above are further subdivided based on the specific reporting

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requirements for the various shipment scenarios. These specific record types include:

- 1) "M01" - This record type indicates that the record contains summary information about an original LLRW shipment. This record type shall will always be followed by one or more container ("C01" or "C05") records.
- 2) "M02" - This record type indicates that the record contains summary information about a consolidated LLRW shipment. This record type shall will always be used when all information on the containers being consolidated has already been reported to and verified by the TSO, and shall will always be followed by one or more container ("C02") records.
- 3) "M03" - This record type indicates that the record contains summary information about a consolidated LLRW shipment originating out of the State of Illinois. This record type shall will always be accompanied by at least one original shipment ("M01") record, and followed by one or more container ("C02") records.
- 4) "C01" - This record type indicates that the record contains information about a specific container in an original BBRW shipment. This record type is used in conjunction with the "M01" record type, and will always be followed by one or more isotope ("I01") records. There will be one "C01" record for each container in the shipment.
- 45) "C02" - This record type indicates that the record contains information about a specific container in a consolidated LLRW shipment. This record type is used in conjunction with the "M02" record types, and shall will always be followed by one or more consolidated container ("P01") records. There shall will be one "C02" record for each container in the shipment.
- 56) "C04" - This record type indicates that the record contains information about a container which has been depleted (stored for decay to background, incinerated with no residue attributed to the generator or shipper, or ownership transferred from the generator to the receiving entity). It is not used in conjunction with any other record. There shall will be one "C04" record for each depleted container reported.
- 67) "C05" - This record type indicates that the record contains information about a specific container in an original LLRW shipment. This record type is used in conjunction with the "M01" record type, and shall will always be followed by one or more waste type ("W01") records. There shall will be one "C05" record for each container in the shipment.
- 70) "P01" - This record type indicates that the record contains information about a container which has been consolidated. This record type is used in conjunction with the "C02"

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record type. There is one "P01" record for each previous container consolidated in the current container.

- 99) "W01" - This record type indicates that the record contains information about a specific waste type within an original container. This record type is used in conjunction with the "C05" record type, and shall ~~with~~ always be followed by one or more isotope "I05" records. There is one "W01" record for each waste type in the container.

- 100) "I01" - ~~This record type indicates that the record contains information about a specific isotope within an original container. This record type is used in conjunction with the "W01" record type. There will be one "I01" record for each isotope present in the container.~~

- 911) "I05" - This record type indicates that the record contains information about a specific isotope within a waste type within an original container. This record type is used in conjunction with the "W01" record type. There ~~shall~~ will be one "I05" record for each isotope in each waste type present in the container.

- c) A detailed listing of the data elements that comprise these various record types is shown on Table A-1 of this Part. Table A-2 of this Part provides the data element definitions as well as the field size, type and format, and usage codes.

B) SHIPMENT SCENARIOS AND EDT FILE FORMAT REQUIREMENTS

- a) For purpose of defining the EDT file format requirements, the various transaction scenarios can be combined into the following groupings:

- 1) Original Shipment (both in-state and out-of-state).
- 2) Consolidated or Continuing Shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a Facility in Illinois by an out-of-state shipper ~~Continuing Shipment of Illinois-generated-BBWR-or-a Consolidated-or-Continuing Shipment by an Illinois shipper of out-of-state-generated-BBWR.~~
- 3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois.

- 4) Report of depleted containers.
- b) Original Shipments are prepared and sent by the generator of the LLRW. Consolidated or Continuing Shipments are those shipments sent from a broker, collector, processor or storer of LLRW.

- c) The following defines the record type requirements for the shipment scenarios listed in this Section above. ~~For some of the BBWR file formats there is a preferred method and an alternative method. Both methods can be processed by the Tracking System. The alternative method is a remnant of the system development~~

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~~process and will be accepted by the 280 until December 31, 1996.~~

1) Original Shipment (both in-region and out-of-region).

- A) ~~Preferred Method:~~ Each EDT file for an original shipment of LLRW sent into, out from, or within the State of Illinois shall ~~with~~ contain a "W01" record. There shall ~~will~~ be a "C05" record for each container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type.

- B) ~~Alternate Method:~~ ~~This method can be used only for containers with a single waste type. Each BBW file for an original shipment of BBWR sent into, out from, or within the State of Illinois will contain a "W01" record. There will be a "C05" record for each container of BBWR present in the shipment, followed by a "W01" record for each isotope present in the shipment, followed by an "I05" record for each isotope present in the container.~~

- 2) Consolidated or Continuing Shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a Facility in Illinois by an out-of-state shipper. ~~Continuing Shipment of Illinois-generated-BBWR-or-Consolidated-or-Continuing Shipment by an Illinois shipper of out-of-state-generated-BBWR.~~

Each EDT file for a Consolidated or Continuing Shipment of Illinois generated LLRW shall ~~Waste~~ Waste ~~will~~ contain a "W02" record. There shall ~~will~~ be a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

- 3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois:

- A) Since the Tracking System will have no record of the out-of-state generated LLRW received by an out-of-state Facility, the out-of-state Facility needs to report those records for the LLRW it ships into Illinois. This is accomplished by providing information comparable to that provided for an original shipment as part of the EDT file for the shipment into Illinois.

- B) For each incoming shipment of LLRW to the out-of-state Facility of out-of-state generated LLRW represented on the shipment to an Illinois Facility, there will be a "W01" record followed by a "C05" record for each original container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each

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isotope present in each waste type. For the consolidated or continuing shipment by an out-of-state shipper of out-of-state generated LLRW to an Illinois Facility there will be a "M03" record followed by a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "p01" record for each previous container present in the consolidated or continuing container.

4) Report of Depleted Containers:

Illinois Facilities that deplete LLRW or out-of-state Facilities that deplete Illinois-generated LLRW need to report those depleted containers to the TSO in order for that waste to be removed from the tracking system. For purposes of the tracking system, LLRW is depleted when it has been stored for decay, incinerated with no residue attributed back to the original generator, or otherwise had the ownership of the waste transferred (as in the melting of contaminated metal into usable shielding blocks). The Facilities report the depleted containers to the TSO using an EDT file composed of one "C04" record for each container depleted.

(Source: Amended at 24 Ill. Reg. _____, effective: _____)

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Section 609. TABLE A-1 Detailed listing of data elements

TABLE A-1

Record Type "M01"	Record Type "M02"	Record Type "M03"
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction-Reference-Number (TRANS-REF)	Transaction-Reference-Number (TRANS-REF)	Transaction-Reference-Number (TRANS-REF)
Manifest Number (MANIF_NUM)	Manifest Number (MANIF_NUM)	Manifest Number (MANIF_NUM)
Consignor's Permit (CNSGNOR_ID)	Consignor's Permit (CNSGNOR_ID)	Consignor's Permit (CNSGNOR_ID)
Consignee's Permit (CNSGNEE_ID)	Consignee's Permit (CNSGNEE_ID)	Consignee's Permit (CNSGNEE_ID)
Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)
Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)
Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)	Activity unit of measure (ACTVY_MEAS)
Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)
Volume unit of measure (VOL_MEAS)	Volume unit of measure (VOL_MEAS)	Volume unit of measure (VOL_MEAS)
Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)
Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)
Received-ship-date (RCV-SHIP)	Received-ship-date (RCV-SHIP)	Received-ship-date (RCV-SHIP)
EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)
Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)
Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)
Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)
Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)
Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)

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TABLE A-1 (continued)

Record Type "M01"	Record Type "M01"	Record Type "M01"
Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)
Highway-route description (HGMV-ROUTE)	Highway-route description (HGMV-ROUTE)	Highway-route description (HGMV-ROUTE)
Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)
Carrier Code (CARRIER_CODE)	Carrier Code (CARRIER_CODE)	Carrier Code (CARRIER_CODE)
Carrier Name (CARRIER_NAME)	Carrier Name (CARRIER_NAME)	Carrier Name (CARRIER_NAME)
Carrier Address 1 (CARRIER_ADDR1)	Carrier Address 1 (CARRIER_ADDR1)	Carrier Address 1 (CARRIER_ADDR1)
Carrier Address 2 (CARRIER_ADDR2)	Carrier Address 2 (CARRIER_ADDR2)	Carrier Address 2 (CARRIER_ADDR2)
Carrier City (CARRIER_CITY)	Carrier City (CARRIER_CITY)	Carrier City (CARRIER_CITY)
Carrier State (CARRIER_STATE)	Carrier State (CARRIER_STATE)	Carrier State (CARRIER_STATE)
Carrier Zip (CARRIER_ZIP)	Carrier Zip (CARRIER_ZIP)	Carrier Zip (CARRIER_ZIP)
Carrier Zip4 (CARRIER_ZIP4)	Carrier Zip4 (CARRIER_ZIP4)	Carrier Zip4 (CARRIER_ZIP4)
Carrier Contact (CARRIER_CONTACT)	Carrier Contact (CARRIER_CONTACT)	Carrier Contact (CARRIER_CONTACT)
Carrier Contact Phone (CARRIER_PHONE)	Carrier Contact Phone (CARRIER_PHONE)	Carrier Contact Phone (CARRIER_PHONE)

* Non-requisite information

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TABLE A-1 (continued)

Record Type "C01"	Record Type "C02"	Record Type "C04"	Record Type "C05"
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)	Consignor's Permit (CNSGNOR_ID) Transaction Reference Number (TRANS_REF)	Holding facility permit (PERMIT_NUM)	Consignor's Permit (CNSGNOR_ID) Transaction Reference Number (TRANS_REF)
Manifest Number (MANIF_NUM)*	Manifest Number (MANIF_NUM)*	Transaction Reference Number (TRANS_REF) Consignor's Permit (CNSGNOR_ID)	Manifest Number (MANIF_NUM)*
Container Number (CNTR_NUM)	Container Number (CNTR_NUM)	Manifest Number (MANIF_NUM) Container Number (CNTR_NUM)	Container Number (CNTR_NUM)
Container volume (CNTR_VOL)	Container volume (CNTR_VOL)	Container Number (CNTR_NUM)	Container volume (CNTR_VOL)
Container type (CNTR_TYPE)	Volume Unit of Measure (VOL_MEAS)		Volume Unit of Measure (VOL_MEAS)
Waste volume (WASTE_VOL)	Container type (CNTR_TYPE)		Container type (CNTR_TYPE)
Container activity (CNTR_ACTV)	Container activity (CNTR_ACTV)		Container activity (CNTR_ACTV)
Activity units of measure (ACTV_MEAS)	Activity units of measure (ACTV_MEAS)		Activity units of measure (ACTV_MEAS)
Container Alpha (CNTR_ALPHA)	Container Alpha (CNTR_ALPHA)		Container Alpha (CNTR_ALPHA)
Alpha less than indicator (ALPHA_SIGN)	Alpha less than indicator (ALPHA_SIGN)		Alpha less than indicator (ALPHA_SIGN)
Container Beta (CNTR_BETA)	Container Beta (CNTR_BETA)		Container Beta (CNTR_BETA)
Beta less than indicator (BETA_SIGN)	Beta less than indicator (BETA_SIGN)		Beta less than indicator (BETA_SIGN)
Container make (CNTR_MAKE)	Container make (CNTR_MAKE)		Container make (CNTR_MAKE)
Container model (CNTR_MODEL)	Container model (CNTR_MODEL)		Container model (CNTR_MODEL)
Container disposition (CNTR_DISP)	Container disposition (CNTR_DISP)		Container disposition (CNTR_DISP)
Over pack indicator (OP_FLAG)	Over pack indicator (OP_FLAG)		Over pack indicator (OP_FLAG)

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TABLE A-1 (continued)

Record Type "C01"	Record Type "C02"	Record Type "C04"	Record Type "C05"
Surface radiation (SURF_RADIA)	Surface radiation (SURF_RADIA)		Surface radiation (SURF_RADIA)
Surface radiation units (RAD_MEAS)	Surface radiation units (RAD_MEAS)		Surface radiation units (RAD_MEAS)
Rad less than indicator (RAD_SIGN)	Rad less than indicator (RAD_SIGN)		Rad less than indicator (RAD_SIGN)
DOT Label ¹ (DOT_LABEL)	DOT Label ¹ (DOT_LABEL)		DOT Label ¹ (DOT_LABEL)
Container weight (CNTR_WGT)	Container weight (CNTR_WGT)		Container weight (CNTR_WGT)
Waste Classification (WASTE_CLAS)	DOT UN ID number (DOT_UN_ID)		DOT UN ID number (DOT_UN_ID)
Waste Type (WASTE_TYPE)	Transport Index ² (TRANS_INDEX)		Transport Index ² (TRANS_INDEX)
Waste Code (WASTE_CODE)	Cert. of Compliance (CERT_NUM)		Cert. of compliance (CERT_NUM)
LSASCO indicator (LSA_SCO)			
Chelating agent 1 (CHE_AGENT1)			
% of chelating agent 1 (CHE_PCT1)			
Chelating agent 2 (CHE_AGENT2)			
% of chelating agent 2 (CHE_PCT2)			
Physical form (PHYS_FORM)			
SSS media (SSS_MEDIA)			
SSS vendor (SSS_VENDOR)			
SSS brand (SSS_BRAND)			
DOT UN ID number (DOT_UN_ID)			
Transport Index ² (TRANS_INDEX)			
Cert. of Compliance (CERT_NUM)			

¹Non-requisite information

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TABLE A-1 (continued)

Record Type "W01"
Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)
Consignor's Permit (CONSIGNOR_ID)
Manifest Number (MANIF_NUM)
Container Number (CNTR_NUM)
Waste Type (WASTE_TYPE)
Waste activity (WST_ACTIVITY)
Activity units of measure (ACTVY_MEAS)
Waste classification (WASTE_CLAS)
Waste volume (WASTE_VOL)
Waste code (WASTE_CODE)
Physical form (PHYS_FORM)
SSS media (SSS_MEDIA)
SSS vendor (SSS_VENDOR)
SSS brand (SSS_BRAND)
Chelating agent 1 (CHE_AGENT1)
% of chelating agent 1 (CHE_PCT1)
Chelating agent 2 (CHE_AGENT2)
% of chelating agent 2 (CHE_PCT2)
LSASCO indicator (LSA_SCO)

¹Non-requisite information

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TABLE A-1 (continued)

Record Type "411"	Record Type "105"
Record Type (REC_TYPE)	Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)	Transaction Reference Number (TRANS_REF)*
Manifest Number (MANIF_NUM)*	Consignor's Permit (CNSGNOR_ID)
Container Number (CNTR_NUM)	Manifest Number (MANIF_NUM)
Radionuclide (RADIONUCL)	Container Number (CNTR_NUM)
Radionuclide activity (NUCL_ACTVY)	Waste Type (WASTE_TYPE)
Activity units of measure (ACTVY_MEAS)	Radionuclide (RADIONUCL)
Activity less than indicator (ACTVY_SIGN)	Radionuclide activity (NUCL_ACTVY)
Radionuclide percentage (RADIO_PCT)	Activity units of measure (ACTVY_MEAS)
% less than indicator (PCT_SIGN)	Activity less than indicator (ACTVY_SIGN)
Special nuclear material grams (SNM_GRAMS)	Radionuclide percentage (RADIO_PCT)
Chemical form (CHEM_FORM)	% less than indicator (PCT_SIGN)
	Special nuclear material grams (SNM_GRAMS)
	Chemical form (CHEM_FORM)

*Non-require information

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TABLE A-1 (continued)

Record Type "P01"
Record Type (REC_TYPE)
Transaction Reference Number (TRANS_REF)
Consignor's Permit (CNSGNOR_ID)
Manifest Number (MANIF_NUM)*
Container Number (CNTR_NUM)
Previous Transaction Reference Number (PREV_TRM)
Previous Consignor's Permit (PREV_CNSNR)
Previous manifest number (PREV_MANF)
Previous container number (PREV_CNTR)
Consolidated volume (COMB_VOL)
% of previous container (PREV_PCT)

*Non-require information

(Source: Amended at 24 Ill. Reg. 181.11, effective 9/1/2000)

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Section 609. TABLE A-2 Data element definitions

TABLE A-2

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
ACT_SHIP	The actual shipment date of a LLRW shipment.	8	0	Numeric (Date)	YYMMDD	N/A	N/A
ACTVY_MEAS	The units used to measure activity (Curies or Millicuries, Microcuries, Becquerels, Terabecquerels, Gigabecquerels, Megabecquerels, Kilobecquerels).	1	0	Alpha-Numeric	X	C M L B T G E K	Curies Millicuries Microcuries Becquerels Terabecquerels Gigabecquerels Megabecquerels Kilobecquerels
ACTVY_SIGN	Indicates whether the activity number is a less than value	1	0	Alpha-Numeric	X	<	Activity value is less than number shown
ALPHA_SIGN	Indicates whether the Container Alpha (CNTR_ALPHA) number is a less than value	1	0	Alpha-Numeric	X	<	Activity value is the number shown. Alpha amount is less than number shown
BETA_SIGN	Indicates whether the Container Beta (CNTR_BETA) number is a less than value	1	0	Alpha-Numeric	X	<	Beta amount less than number shown. Beta amount is the number shown.
C14_ACT	The total activity of C-14 within a LLRW shipment unit of measure is the manifest record's ACTVY_MEAS value	24 43	10 4	Scientific Numeric	9 9999F99 99999 9999999	N/A	N/A
CARRIER_CD	Carrier Code	2		Alpha-Numeric	X(2)	N/A	N/A
CARRIER_NAME	Carrier Name	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_ADDR1	Carrier Address 1	50		Alpha-Numeric	X(50)	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CARRIER_ADDR2	Carrier Address 2	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_CITY	Carrier City	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_STATE	Carrier State	2		Alpha-Numeric	X(2)	N/A	N/A
CARRIER_ZIP	Carrier Zip Code	5		Alpha-Numeric	X(5)	N/A	N/A
CARRIER_ZIP4	Carrier Zip Suffix	4		Alpha-Numeric	X(4)	N/A	N/A
CARRIER_CONTACT	Carrier Contact	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_PHONE	Carrier Phone	20		Alpha-Numeric	X(20)	N/A	N/A
CERT_NUM	An NRC or host state certificate of compliance number. Refers to a specific container type, i.e. High Integrity Container	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_AGENT1	The primary chelating agent used in a LLRW waste type.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_AGENT2	The secondary chelating agent used in a LLRW waste type.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_PCT1	The percentage of the primary chelating agent by weight of waste	5 4	2	Numeric	999.99	N/A	N/A
CHE_PCT2	The percentage of the secondary chelating agent by weight of waste	5 4	2	Numeric	999.99	N/A	N/A
CHEM_FORM	A description of the chemical form of a specific radionuclide within a container	25	0	Alpha-Numeric	X(25)	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CNSGNEE_ID	The Tracking System Permit number assigned to the receiving facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2, State abbreviation Positions 3-6 Sequential number for permits in that state
CNSGNOR_ID	The Tracking System Permit number assigned to the sending facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2, State abbreviation Positions 3-6 Sequential number for permits in that state
CNTR_ACTVY	The total activity of all waste within a LLRW container. Units of measure are indicated by the record's ACTVY_MEAS value.	24-43	10-6	Scientific Numeric	9.9999E99 99999.999999	N/A	N/A
CNTR_ALPHA	The surface contamination of a LLRW container in alpha disintegrations per minute (dpm)/100 cm ² .	5	0	Numeric	99999	N/A	N/A
CNTR_BETA	The surface contamination of a container in beta disintegrations per minute (dpm)/100 cm ² .	5	0	Numeric	99999	N/A	N/A
CNTR_MAKT	The specific make of a LLRW container type.	44	4	Alpha Numeric	X(44)	N/A	N/A
CNTR_MODEL	The specific model of a LLRW container type.	44	4	Alpha Numeric	X(44)	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CNTR_NUM	The unique identification number assigned to each LLRW container within a shipment.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CNTR_TYPE	A code identifying the container type of a LLRW container.	3	0	Alpha-Numeric	XXX	BUW CTL DMZ EBB EBD FTL GCY HIC MBC MDP MTL OTH PDP PLI PTL SLC UNP WRC N/A	Bulk unpackaged waste Concrete tank or liner Deminerallizer Fiberboard box Fiber drum Fiberglass tank Gas cylinder High integrity container Metal box or crate Metal drum or pail Metal tank or liner Other Plastic drum or pail Pallet Polyethylene tank Sealant container Unpacked components Wooden box or crate N/A
CNTR_VOL	The total volume (outside dimension) of a LLRW container, in cubic feet.	7	2	Numeric	99999.99		

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
CNFR_WGT	The total weight of a LLRW container, including the contents, in pounds.	5	0	Numeric	99999	N/A	N/A
COMB_VOL	The post-consolidation volume of a container.	7	2	Numeric	99999.99	N/A	N/A
DOT_LABEL	The US DOT label which applies to a LLRW container	1	0	Numeric	9	0 1 White-I 2 Yellow-II 3 Yellow-III 4 Oxidizer 5 Spontaneously combustible 6 Corrosive 7 N/A	Empty White-I Yellow-II Yellow-III Oxidizer Spontaneously combustible Corrosive N/A
DOT_UN_ID	The identification number for the proper shipping name of a LLRW container	6	0	Alpha-Numeric	XXXXXX	UN2948 UN2910	Radioactive material-empty packages, n.o.s. Radioactive material, limited quantity, n.o.s., excepted package-articles manufactured from natural (or) depleted uranium (or) thorium Radioactive material, excepted package-empty package (or) empty packaging Radioactive material, excepted package-instruments (or) articles Radioactive material, excepted package-limited quantity of material

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TABLE A2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
DOT_UN_ID (cont.)	The identification number for the proper shipping name of a LLRW container	6	0	Alpha-Numeric	XXXXXX	N2944 UN2912 UN2913 UN2918 UN2974 UN2982 UN-NRM	Radioactive materials Radioactive material, low specific activity, n.o.s. (or) Radioactive material, LSA, n.o.s. Radioactive material, surface contaminated object (or) Radioactive material, LSA, n.o.s. Radioactive material, fissile, n.o.s. Radioactive material, special form, n.o.s. Radioactive material, n.o.s. Non-regulated material
EPA_MANIF	The EPA manifest number assigned to a LLRW shipment which has EPA regulated waste.	12	0	Alpha-Numeric	X(12)	N/A	N/A
EXCLUS_USE	A flag indicating whether a LLRW shipment is an exclusive use shipment, i.e., a shipment which cannot be opened after shipment, except by the consignee	1	0	Alpha-Numeric	X	T F Y N	True False Yes No

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
NUCL_ACTVY	The activity level for a specific radionuclide within a given LLRW container. Units of measure indicated by the record's ACTVY_MEAS value.	24 12	10 6	Scientific Numeric	9.9999E99 99999.999999	N/A	N/A
OP_FLAG	A logical flag indicating whether a LLRW container requires disposal in a approved structural overpack.	1	0	Alpha-Numeric	X	T F Y N	True False Yes No
PCT_SIGN	Indicates whether the radionuclide percentage (RADIO_PCT) number is a less than value.	1	0	Alpha-Numeric	X	<	Percent amount is less than the number given.
PERMIT_NUM	The Tracking System permit number assigned to the holding facility of a LLRW container.	6	0	Alpha-Numeric	XX9999	N/A	Percent amount is the number given Positions 1-2. State abbreviation Positions 3-6. Sequential number for permits in that state
PHYS_FORM	A code indicating the physical form of LLRW within the container.	1	0	Alpha-Numeric	X	G L S	Gas Liquid Solid
PREV_TRN	The Tracking System transaction reference number assigned to the shipment in which the previous container (PREV_CNTR) was received.	10	0	Alpha-Numeric	XXXX999999		Positions 1-2. Sending facility state abbreviation Position 3. Sending facility type Positions 4-10. Sequential number for the sending state's data activity

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
H3_ACT	The total activity of H-3 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	24 12	10 6	Scientific Numeric	9.9999E99 99999.999999	N/A	N/A
HQWT_ROUTE	The specific and detailed highway route of a US DOT-controlled shipment of LLRW.	No limit	0	Memo	X(n)	N/A	N/A
I129_ACT	The total activity of I-129 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	24 12	10 6	Scientific Numeric	9.9999E99 99999.999999	N/A	N/A
LSA_SCO	The group notation for a shipment of Low Specific Activity material or Surface Contaminated Objects.	4	0	Alpha-Numeric	XXXX	LSA1 LSA2 LSA3 SC01 SC02	Low Specific Activity - I Low Specific Activity - II Low Specific Activity - III Surface Contaminated Objects - I Surface Contaminated Objects - II
MANIF_NUM	The unique number assigned to a LLRW shipment by the sending or receiving facility.	10	0	Alpha-Numeric	X(10)	N/A N/A	N/A N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
PREV_CNTR	The Tracking System Permit number assigned to the facility sending a LLRW shipment for shipment for depleting.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation Positions 3-6: Sequential number for permits in that state.
PREV_CNTR	The previous unique identification number of a container which was been consolidated into the current container.	16	0	Alpha-Numeric	X(16)	N/A	N/A
PREV_MANF	The manifest number assigned to the shipment in which the previous container (PREV_CNTR) was received.	10	0	Alpha-Numeric	X(10)	N/A	N/A
PREV_PCT	The percentage of the consolidated container (PREV_CNTR) that has been consolidated into the current container.	3	0	Numeric	999	N/A	N/A
RAD_MEAS	A code indicating the units used to measure the radiation level of a LLRW container (SURF_RADIA).	1	0	Alpha-Numeric	X	M R	Millirems per hour (mR/hr) Rems per hour (R/hr)
RAD_SIGN	Indicates whether the radiation level of a LLRW container (SURF_RADIA) is less than the value given.	1	0	Alpha-Numeric	X	< (blank)	Radiation level less than number given Radiation level is the number given
RADIO_PCT	The percentage of a radionuclide within a LLRW container with respect to all radionuclides within the container.	6	3	Numeric	999 999	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
RADIONUCL	The abbreviated atomic name of a radionuclide with in a LLRW container.	8	0	Alpha-Numeric	XXXXXXXX	N/A	Any valid radionuclide atomic symbol with atomic weight (C12 scale), e.g. C14, TC99, or CA40.
REC_TYPE	The EDT record type of the current record.	3	0	Alpha-Numeric	X99	M01 M02 M03 C04 C02 C04 C05 W01 I05 P01	Original manifest record Consolidated manifest record Out of state consolidated manifest record Original container record (alternative format) Consolidated container record Container removed from inventory record Original container record Waste Type record Radionuclide record Consolidated container pointer record
RCV_SHIP	The date on which a LLRW shipment was received by the receiving facility.	8	0	Numeric (date)	XXXXXXXXDD	N/A	N/A
SNM_GRAMS	The weight of a specific radionuclide of special nuclear material (U-233, U-235) in grams.	10	7	Numeric	999 9999999	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
SSS_BRAND	The brand name of a particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type	15	0	Alpha-Numeric	X(15)	N/A	N/A
SSS_MEDIA	A code identifying the particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type.	3	0	Numeric	999	60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100	Speedi Dri Celcon Floor Dry/ Superfine Hi Dri Safe T Sorb Safe N Dri Flocco Flocco X Solid A Sorb Chemtil 20 Chemtil 30 Chemtil 3030 Dicaperl HP200 Dicaperl HP500 Petroset Petroset II Aqualet Aqualet II Other Sorbent Cement Concrete (Encapsulation) Bitumen Vinyl Chloride Vinyl Ester Styrene Other solidification None Required
SSS_VENDOR	The vendor of a particular stabilization, sorbent, or solidification media (SSS_MEDIA) within a LLRW waste type	15	0	Alpha-Numeric	X(15)	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
SURF_RADIA	The radiation level measure on contact with a LLRW container Units of measure indicated by the record's RAD_MEAS value	8	2	Numeric	999999 99	N/A	N/A
TC99_ACT	The total activity of TC-99 within a LLRW shipment. Units of measure indicated by the record's ACTVY_MEAS value	24 42	10 6	Scientific Numeric	9 99999E99 999999-999999	N/A	N/A
TOT_ACTVY	The total activity of all containers in a LLRW shipment Units of measure indicated by the record's ACTVY_MEAS value	24 42	10 6	Scientific Numeric	9 99999E99 999999-999999	N/A	N/A
TOT_CNTRS	The total number of containers in a LLRW shipment	10 3	0	Numeric	9999999	N/A	N/A
TOT_SNM_WT	The total weight of all radionuclides of special nuclear material within a LLRW shipment, measured in grams	10	7	Numeric	999 99999999	N/A	N/A
TOT_SRC_WT	The total weight of source material on a LLRW shipment, in pounds	9	2	Numeric	99999999 99	N/A	N/A
TOT_VOLUME	The total volume of all containers in a LLRW shipment, in cubic feet	10 4	2	Numeric	99999999 99	N/A	N/A

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
TOT_WEIGHT	The total weight of all containers in a LLRW shipment, in pounds.	10-6	0	Numeric	9999999999	N/A	N/A
TRANS_IDX	The transportation index for a package label on a LLRW container.	10	0	Alpha-Numeric	X(10)	N/A	N/A
VOL_MEAS	The volume unit of measure	1	0	Alpha-Numeric	X	E	Cubic Feet
TRANS_REF	A unique Tracking System reference number assigned at the time of notification of a LLRW shipment.	10	0	Alpha-Numeric	XXXXXXXXXXXX	M	Cubic Meters
WASTE_CLAS	The waste classification of a LLRW waste type.	2	0	Alpha-Numeric	XX	AS	Positions 1-2: Sending facility-state abbreviation Position 3 - Sending facility-type Positions 4-10: Sequential number for the sending state's transactions
WASTE_CODE	A code indicating whether the waste in a waste type has been collected or processed.	1	0	Alpha-Numeric	X	AU B C ~C C P D (blank)	Class A stable Class A unstable Class B Class C Greater than Class C Collected Processed Decommissioned Neither

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TABLE A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
WASTE_TYPE	A code indicating the specific type of waste type.	2	0	Alpha-Numeric	XX	20-44 59	Charcoal Incinerator ash Soil Gas Oil Aqueous liquid Filter media Mechanical filter EPA Hazardous Demolition rubble Cation ion-exchange media Anion ion-exchange media Mixed bed ion-exchange media Contaminated equipment Organic liquid (except oil) Glassware or lab ware Sealed source/device Paint or plating Evaporator bottoms, sludges, concentrates Compactable trash Noncompactible trash Animal carcasses Biological material (except animal carcasses) Activated material Mixed waste Other
WASTE_VOL	The volume of the specific waste type (WASTE_TYPE) within a LLRW container, in cubic feet	7	2	Numeric	9999999	N/A	N/A

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Table A-2 (continued)

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
WST_ACTVY	The total activity of all radionuclides within a waste type. Units are indicated by the record's ACTVY_MEAS value	2443	10 6	Scientific Notation	9.9999E99 99999.999999	N/A	N/A

(Source: Amended at 24 Ill. Reg. 18238, effective 9/1/2000)

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- Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology
- Code Citation: 32 Ill. Adm. Code 401
- | Section Number: | Adopted Action: |
|-----------------|-----------------|
| 401.20 | Amendment |
| 401.30 | Amendment |
| 401.60 | Amendment |
| 401.70 | Amendment |
| 401.80 | Amendment |
| 401.120 | Amendment |
| 401.130 | Amendment |
| 401.140 | Amendment |
| 401.170 | Amendment |
- Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 (420 ILCS 40/5, 6, 7 and 36)
- Effective Date of Amendments: December 1, 2000
- Does this rulemaking contain an automatic repeal date? No
- Does this rulemaking contain incorporations by reference? No
- A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- Notice of Proposal Published in the Illinois Register: August 18, 2000 (24 Ill. Reg. 12206)
- Has JCAR issued a Statement of Objection to these amendments? No
- Differences between proposal and final version: In Section 401.20, in the definition of "Approved Program", change "(1983)" to "(1999)".
- Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? JCAR did not issue an agreement letter for this rulemaking.
- Will these amendments replace an emergency amendment currently in effect?
No
- Are there any amendments pending on this Part? No
- Summary and Purpose of Amendment: This amendment will: (1) increase the limited diagnostic radiography accreditation examination fee from \$30 to

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\$80 and clarifies time frames applicable to accreditation renewals; (2) specifies that the Department shall base accreditation decisions concerning failure to meet child support orders solely upon the Department of Public Aid's or the court's certification of delinquency without a further hearing being required; and (3) adds failure to pay a Department assessed fee to the list of actions that may lead to suspension or revocation of an individual's accreditation to administer radiation to humans.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Louise Michels
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section	
401.10	Policy and Scope
401.20	Definitions
401.30	Exemptions
401.40	Application for Accreditation
401.50	Categories of Accreditation
401.60	Examination Requirements
401.70	Acceptable Examinations
401.80	Approved Program
401.90	Practice Requirement - Initial Licensure (Repealed)
401.100	Initial Issuance of Accreditation
401.110	Duration of Accreditation
401.120	Suspension, Revocation and Denial of Accreditation
401.130	Fees
401.140	Requirements for Renewal of Accreditation
401.150	Reciprocity
401.160	Additional Requirements for Radiographers Performing Mammography
401.170	Civil Penalties

APPENDIX A Limited Diagnostic Radiography Procedures by Type of Limited Accreditation

APPENDIX B Example Topics Directly Related to Radiologic Sciences

APPENDIX C Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. 12595, effective September 6, 1996; amended at 21 Ill. Reg. 13587, effective September 25, 1997; amended at 23 Ill. Reg. 324, effective January 1,

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1999; amended at 24 Ill. Reg. ~~§ 1.0~~, effective ~~_____~~.

Section 401.20 Definitions

As used in this Part, the following definitions shall apply:

"Accreditation" - The process by which the Department of Nuclear Safety grants permission to persons meeting the requirements of the this Act and the Department's rules and regulations to engage in the practice of administering radiation to human beings. [420 ILCS 40/4] Section-4-of-the-Act}

"Act" - The Radiation Protection Act of 1990 [420 ILCS 40] ~~P-A-86-1341r-effective-September-77-1990~~.

"Administers Ionizing Radiation" - see "Applies Ionizing Radiation"

"Applies Ionizing Radiation" - The act(s) of using ionizing radiation for diagnostic or therapeutic purposes. Specifically included are those tasks which have a direct impact on the radiation burden of the patient, e.g.: Positioning of the patient, film and beam; preparation, calibration, and injection of radiopharmaceuticals; imaging or laboratory techniques which if performed improperly would result in the re-administration of radiation; selection of technique or treatment parameters.

"Approved Program" - A program which the Department has determined is adequate to prepare students to meet the education requirements prescribed in 42 CFR 75.3 Appendix A, D, and E [1999] ~~1989~~, exclusive of subsequent amendments or editions. A copy of 42 CFR 75.3 is available for inspection at the Department's offices, 1035 Outer Park Drive, Springfield, IL.

"Board" - The Radiologic Technologist Accreditation Advisory Board (R.T.A.A.B.).

"Chiropractic Radiographic Assistant" - A person other than a licensed practitioner who performs medical radiation procedures and applies x-radiation to the human body for diagnostic evaluation of skeletal anatomy, while under the supervision of a licensed chiropractor.

"Chiropractic Radiography" - The science and art of applying x-radiation to human beings for diagnostic purposes in Chiropractic.

"Credentialing" - Any Means-any process whereby a State government or non-governmental agency or association grants recognition to an individual who meets certain predetermined qualifications.

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"Department" - The Means-the Illinois Department of Nuclear Safety.

"Direct Supervision" - An individual is in the physical presence of a licensed practitioner or medical radiation technologist who holds active status accreditation and assists, evaluates and approves of the individual's performance of the various tasks involved in the application of ionizing radiation.

"Director" - The Means--the Director of the Department of Nuclear Safety.

"Ionizing Radiation" - Gamma Means-gamma rays, and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared or ultraviolet light.

"In vitro" - Isolated from the living organism.

"In vivo" - Occurring within the living organism.

"Licensed Practitioner" - A person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic or podiatry.

"Limited Diagnostic Radiographer-Chest" - A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human chest for diagnostic purposes.

"Limited Diagnostic Radiographer-Extremities" - A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human extremities for diagnostic purposes.

"Limited Diagnostic Radiographer-Skull and Sinuses" - A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human skull and sinuses for diagnostic purposes.

"Limited Diagnostic Radiographer-Spine" - A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human spine for diagnostic purposes.

AGENCY NOTE: Specific radiographic examinations appropriate to each type of limited radiography accreditation may be found in Appendix A of this Part.

"Medical Radiation Technology" - The science and art of performing

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medical radiation procedures involving the application of ionizing radiation to human beings for diagnostic and therapeutic purposes. The five specialized disciplines of Medical Radiation Technology are Medical Radiography, Nuclear Medicine Technology, Radiation Therapy Technology, Chiropractic Radiography, and Podiatric Radiography.

"Medical Radiographer" - A person, other than a licensed practitioner, who, while under supervision of a licensed practitioner, applies x-radiation to any part of the human body and who, in conjunction with radiation studies may, administer contrast agents and related drugs for diagnostic purposes.

"Medical Radiography" - The science and art of applying x-radiation to human beings for diagnostic purposes.

"Nuclear Medicine Technologist" - A person, other than a licensed practitioner, who, administers radiopharmaceuticals and related drugs to human beings for diagnostic purposes, performs in vivo and in vitro detection and measurement of radioactivity and administers radiopharmaceuticals to human beings for therapeutic purposes. A nuclear medicine technologist may perform such procedures only while under the supervision of a licensed practitioner who is licensed to possess and use radioactive materials.

"Nuclear Medicine Technology" - The science and art of in vivo and in vitro detection and measurement of radioactivity and the administration of radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

"Radiation Therapist" - A person, other than a licensed practitioner, who performs procedures and applies ionizing radiation emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes while under the supervision of a licensed practitioner who is licensed, as required, to possess and use radioactive materials.

"Radiation Therapy Technology" - The science and art of applying ionizing radiation emitted from x-ray machines, particle accelerators and sealed radioactive sources to human beings for therapeutic purposes.

"Supervision" - Responsibility for, and control of, quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 401.30 Exemptions

- a) Nothing in the Act or this Part shall be construed to limit or affect in any respect, the practice of persons properly licensed under other statutes or regulations with respect to their professions.
- b) The Department shall, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in a hazard to public health and safety.
- c) Exemptions shall include:

- 1) A student enrolled in an approved program applicable to his/her profession who, as a part of his/her course of study, applies ionizing radiation to human beings while under the direct supervision of a licensed practitioner or medical radiation technologist who holds active status accreditation.
- 2) A person registered with the Department as a student-in-training in limited diagnostic radiography pursuant to Section 401.80(c) of this Part who applies ionizing radiation to human beings while under the supervision of a licensed practitioner, provided that the procedures performed shall be limited to the procedures as listed in Appendix A of this Part, applicable to the particular status condition of limited diagnostic radiography for which the student is registered. This exemption shall only apply to individuals who are registered with the Department and shall only apply for 16 months.
- 3) A person licensed to practice a treatment of human ailments by virtue of the Medical Practice Act of 1987 [225 ILCS 60], the Illinois Dental Practice Act [225 ILCS 25], or the Podiatric Medical Practice Act of 1987 [225 ILCS 100]. [420 ILCS 40/5]
- 4) A person employed as a dental assistant who performs dental radiography for a licensed dentist.
- 5) A technician, nurse or other assistant who performs radiography under the supervision of a person licensed under the Podiatric Medical Practice Act of 1987.
- 6) A person who holds Conditional Accreditation Type II issued in accordance with Section 401.100(d) of this Part during such time as that person is under the direct supervision of a licensed practitioner or medical radiation technologist who holds active status accreditation for purposes of being instructed in the use of equipment and/or procedures other than those for which the person is currently accredited. This exemption is specific to the facility at which the accreditation is valid.
- 7) A nurse, technician, or other assistant who, under the supervision of a person licensed under the Medical Practice Act of 1987, administers radiation to human beings, but only when such administration is performed on employees of a business at a medical facility owned and operated by that business. [420 ILCS 40/6]

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(Source: Amended at 24 Ill. Reg. 18246, effective 1-1-84)

Section 401.60 Examination Requirements

- a) Active - Persons who seek active status accreditation in medical radiation technology shall must pass a Department approved a-written examination as appropriate to the category of accreditation sought in accordance with Section 401.70 of this Part.
- b) Temporary - Persons who seek active status accreditation and are awaiting the successful completion of an examination in accordance with Section 401.70 of this Part may apply for and be issued temporary accreditation. Temporary accreditation shall be valid until the person has passed the appropriate examination and has applied for and been issued active status accreditation. In no case shall temporary accreditation be valid for more than two years from the date of issuance.
- c) Conditional - Examination shall not be required for conditional accreditation.
- d) Limited Diagnostic Radiographer-Chest - Persons who seek accreditation to perform radiography of the chest, but not any other parts of the body, shall must pass a Department approved a-written examination on general radiography topics and a Department approved a-written examination on chest anatomy and clinical skills required to perform radiography of the chest in accordance with Section 401.70(c) of this Part.
- e) Limited Diagnostic Radiographer-Extremities - Persons who seek accreditation to perform radiography of the extremities, but not any other parts of the body, shall must pass a Department approved a-written examination on general radiography topics and a Department approved a-written examination on anatomy of the extremities and clinical skills required to perform radiography of the extremities in accordance with Section 401.70(c) of this Part.
- f) Limited Diagnostic Radiographer-Skull and Sinuses - Persons who seek accreditation to perform radiography of the skull and or sinuses, but not any other parts of the body, shall must pass a Department approved a-written examination on general radiography topics and a Department approved a-written examination on anatomy of the skull and sinuses and clinical skills required to perform radiography of the skull and sinuses in accordance with Section 401.70(c) of this Part.
- g) Limited Diagnostic Radiographer-Spine - Persons who seek accreditation to perform radiography of the spine, but not any other parts of the body, shall must pass a Department approved a-written examination on general radiography topics and a Department approved a-written examination on anatomy of the spine and clinical skills required to perform radiography of the spine in accordance with Section 401.70(c) of this Part.

AGENCY NOTE: Persons may seek accreditation in more than one status

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condition of limited diagnostic radiography.

(Source: Amended at 24 Ill. Reg. 18247, effective 1-1-84)

Section 401.70 Acceptable Examinations

- a) The Department shall accept for issuance of Active Status Accreditation examinations as identified by this Section. Accreditation shall be specific to the category of examination as specified in subsection (b) of this Section.
- b) Examinations as appropriate to category of accreditation are as follows:
 - 1) Medical Radiography
 - A) The American Registry of Radiologic Technologists (A.R.R.T.), or
 - AGENCY NOTE: Graduation from an approved program as set forth in Section 401.80(a) of this Part is a prerequisite for sitting for the A.R.R.T. examination.
 - B) The American Registry of Clinical Radiography Technologists (A.R.C.R.T.) provided that the applicant passed the A.R.C.R.T. examination after January 1, 1991, and the applicant has graduated from an approved program as set forth in Section 401.80(a) of this Part.
- 2) Nuclear Medicine Technology
 - The American Registry of Radiologic Technologists (A.R.R.T.), the Nuclear Medicine Technology Certification Board (N.M.T.C.B.), the American Society of Clinical Pathologists (N.M.A.S.C.P.).
- 3) Radiation Therapy Technology
 - The American Registry of Radiologic Technologists (A.R.R.T.).
- 4) Chiropractic Radiography
 - American Chiropractic Registry of Radiologic Technologists (ACRRT), provided that the examination was administered after June 30, 1984.
- c) Examinations in Limited Diagnostic Medical Radiography - Applicants for accreditation in one or more areas of limited diagnostic radiography shall have passed a Department approved a-written examination on general radiography topics and a Department approved a-written examination specific to the type of limited accreditation sought. All Department approved written examinations shall be approved by and scheduled through the Department. The passing score for Department approved written examinations shall be a scaled score of 75 percent.
- d) For Active Status Accreditation, examinations by other certifying organizations shall be accepted upon written request to the Department, provided that the Department finds that the certifying

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organization has met the National Commission for Health Certifying Agencies (NCHCA) requirements. (Publication Title: Perspectives on Health Occupational Credentialing) Contract # 232-78-0187, dated September 30, 1979, DHHS Publication No. (HRA) 81-4, U.S. Government Printing Office, Washington, D.C. 20402.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 401.80 Approved Program

a) The Department shall base its approval of didactic and clinical education for Medical Radiography, Nuclear Medicine Technology, or Radiation Therapy Technology on the standards accepted by the United States Department of Education. (Specific information concerning these standards is available from the Joint Review Committee on Education in Radiologic Technology (JRCERT), 20 North Wacker Dr., Chicago IL 60606-2901 and from the Department. These standards are entitled: Standards for Educational Programs in Radiological Sciences (1997); Essentials of an Accredited Educational Program for the Nuclear Medicine Technologist (1991), and do not include subsequent amendments or editions).

b) The Department shall base its approval of didactic and clinical education in Chiropractic Radiography on the standards accepted by the Chiropractic Council on Education (CCE), published January 27, 1985, exclusive of subsequent amendments or editions. Specific information concerning these standards is available from the Department or from the Chiropractic Council on Education, 3209 Ingersoll Avenue, Des Moines, Iowa 50312. Student exemption for persons enrolled in an approved Chiropractic Radiography program shall not exceed 12 months.

c) The Department shall base its approval of didactic and clinical education in Limited Diagnostic Radiography on standards contained in the "Curriculum Guide for Limited Permittee Programs", June 1987, exclusive of subsequent amendments or editions. Copies of these standards are available from the American Society of Radiologic Technologists, 15000 Central Avenue South East, Albuquerque, New Mexico 87123. Students-in-training in Limited Diagnostic Radiography shall be registered with the Department on forms provided by the Department. Registration with the Department shall include application and payment of applicable fees for examination. Students-in-training in Limited Diagnostic Radiography shall not begin application of ionizing radiation to humans prior to the Department's approval of the student's proposed training as identified through the student-in-training registration process. The Department shall refuse to register an individual as a student-in-training when the party(s) responsible for the training of said student has demonstrated poor training of students as evidenced by either a cumulative failure rate in excess of 50 percent of the trainer's students or two consecutive

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students who fail the examinations specified in Section 401.70(c) of this Part. Such refusal shall not prohibit the trainer from training students in limited radiography through didactic and clinical education exclusive of the application of ionizing radiation to human beings. Successful examinations by students trained in such a manner may be used to demonstrate improved training and qualification for further students-in-training provided that the cumulative failure rate is reduced to less than 50 percent without two consecutive failures.

d) If the employer is not identified as the party responsible for training the student, the Department shall register an individual as a student-in-training in the employer's practice only if the student is concurrently enrolled in a program that meets the minimum requirements for a training program in limited radiography established by the Joint Review Committee on Education in Radiologic Technology, published 1997, by the Joint Review Committee on Education, 20 N. Wacker Drive, Suite 900, Chicago, Illinois 60606-2901. Students-in-training in Limited Diagnostic Radiography shall take the appropriate Department approved ~~written~~ or written and practical examinations not later than the eight month of training. Students shall not perform radiographic procedures beyond the 16 months of training unless the required examinations have been passed.

e) All approved training programs shall include an overview of the Radiation Protection Act of 1990, this Part and related application forms and procedures.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 401.120 Suspension, Revocation and Denial of Accreditation

a) The Department may act to suspend or revoke an individual's accreditation, or refuse to issue or renew accreditation, for any one or a combination of the following causes:

- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial accreditation or renewal of accreditation if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for accreditation under this Part;
- 2) Willfully evading the statute or regulations pertaining to accreditation, or willfully aiding another person in evading such statute or regulations pertaining to accreditation;
- 3) Performing procedures under or representing as valid to any person either a certificate of accreditation not issued by the Department, or a certificate of accreditation containing on its face unauthorized alterations or changes that are inconsistent with Department records regarding the issuance of such certificate;
- 4) Having been convicted of a crime which is a felony under the laws

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of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;

- 5) Exhibiting significant or repeated incompetence in the performance of professional duties;
- 6) Having a physical or mental illness or disability which results in the individual's inability to perform professional duties with reasonable judgment, skill and safety;
- 7) Continuing to practice medical radiation technology when knowingly having a potentially serious disease, such as those listed in 77 Ill. Adm. Code 690.100, which could be transmitted to patients;
- 8) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of professional duties;
- 9) Having had a similar credential by another state or the District of Columbia suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein;
- 10) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71;
- 11) Failing to meet child support orders as provided in 5 ILCS 100/10-65;
- 12) Failing to pay a fee or civil penalty properly assessed by the Department.

- b) If, based upon any of the grounds in subsection (a) of this Section, the Department determines that action to suspend or revoke accreditation, or refusal to issue or renew accreditation, is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's accreditation unless the Department finds that an immediate suspension of accreditation is required to protect against immediate danger to the public health or safety (see 420 ILCS 40/38), in which case the Department shall suspend an individual's accreditation pending a hearing. The Department shall revoke or suspend or shall refuse to issue or renew accreditation under subsection (a)(11) of this Section based solely upon the certification of delinquency made by the Department of Public Aid or the certification of violation made by the court. Further process, hearing, or redetermination of the delinquency or violation by the Department shall not be required. [5 ILCS 100/10-65(c)]

- c) If the Department finds that removal, or refusal to issue or renew accreditation, is warranted, the usual action shall be a suspension or denial of accreditation for up to one year. The term of suspension or denial may be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence

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presented to ~~him/her~~ at a hearing, that if the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. In the case of frequent child support arrearages, the Department may also impose conditions, restrictions or disciplinary action upon the accreditation. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety, deficiencies that cannot be cured within one year or frequent child support arrearages, the Department shall revoke the individual's accreditation or deny the application.

- d) When an individual's accreditation is suspended or revoked, the individual shall surrender his/her credential to the Department until the termination of the suspension period or until reissuance of the accreditation.
- e) An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Department. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 401.130 Fees

- a) The fees for accreditation in all categories shall be non-refundable and shall be as follows:

- 1) Initial Accreditation - Active, Conditional, Temporary or Limited Status: \$60 per application
- 2) Renewal of Accreditation - Active, Conditional, or Limited Status. Application filed and all qualifications, including continuing education met prior to expiration of previous accreditation, or in the case of closed files, prior to application: \$60 per application
- 3) Renewal of Accreditation - Active, Conditional, or Limited Status. Application filed after the expiration of previous accreditation, closed files excepted, and all qualification, including continuing education, met prior to application for renewal: ~~expiration of previous accreditation~~ \$75 per application
- 4) Renewal of Accreditation - Active, Conditional, or Limited Status. Application filed before or after the expiration of previous accreditation, but the applicant has not documented completion of the

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required continuing education prior to the expiration of the accreditation being renewed, resulting in issuance of interim Department authorization to perform medical radiation procedures for a period of up to 90 days pursuant to Section 401.140(a)(1) of this Part:

- b) Examination fee for Limited Diagnostic Radiography Accreditation shall be \$90 ~~96~~. All applications for examinations to be held in the year 2001 shall be accompanied by the \$90 fee regardless of date of receipt by Department.
- c) The appropriate fees are to accompany the application when filing with the Department. An application is filed on the date that it is received and stamped by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 401.140 Requirements for Renewal of Accreditation

a) Prerequisites

- 1) An individual shall ~~must~~ make application for renewal of accreditation on or before the expiration date of the accreditation. Accreditation shall lapse if not renewed within this time period. An individual may not legally perform medical radiation technology without valid accreditation, or without the expressed approval of the Department during such time as an application may be pending. Such approval shall be limited to the applicant who meets all requirements for ~~initial~~ accreditation and requires additional time for the filing of continuing education records. The duration of such approval shall not exceed 90 days unless the application is received prior to expiration of the current accreditation. Nothing in this Section shall be interpreted to preclude an individual from seeking the renewal of lapsed accreditation.

- 2) Each applicant shall submit a complete and legible application with the fee for renewal of accreditation in accordance with Section 401.130 of this Part. Submission of a timely and sufficient ~~an~~ application for renewal shall hold the prior accreditation valid until such time as the Department acts to grant or deny renewal of accreditation. The Department will grant or deny renewal of accreditation within ~~ninety~~ 90 days after ~~of~~ receipt of application for renewal or the expiration date of the current accreditation, whichever is later.

b) Continuing Education Requirements

All applicants for renewal of accreditation, regardless of the category or status of accreditation sought to be renewed, shall ~~must~~ provide evidence of having participated in an approved program of

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continuing education as indicated below:

- 1) The required effort in continuing education per year for each category of medical radiation technology, applicable to each year elapsed since the most recent date of issuance of accreditation, not to exceed 2 two years beyond the expiration of the last accreditation, is as follows:

A) Radiography	12 units
B) Nuclear Medicine Technology	12 units
C) Radiation Therapy Technology	12 units
D) Chiropractic Radiography	12 units
E) Limited Diagnostic Radiography	6 units

2) An applicant who:

- A) surrenders his/her accreditation shall meet the requirements set forth in subsection (b)(1) of this Section but shall not be held responsible for continuing education for the period beyond the date when such accreditation was surrendered.
- B) can provide evidence that he/she has not been employed to perform radiation procedures in this State during periods of lapsed accreditation shall not be held responsible for continuing education for periods of such lapsed accreditation but shall be responsible for continuing education requirements accrued during the period for which the most recent accreditation was valid.
- C) applies for renewal of accreditation and meets either provision in subsection (b)(2)(A) or (b)(2)(B) of this Section shall have completed 12 of the units hours of continuing education required by subsection (b)(1) of this Section for renewal within 1 one year preceding the application for renewal or within 90 days after the submission of the application, if approved by the Department or the expiration date of the current accreditation, whichever is later. Such approval by the Department shall be granted only for reasons of deficient continuing education.
- 3) The continuing education effort may be averaged during the period to which the requirement applies and shall be prorated by month. Individual courses may be applicable to more than one category of accreditation. The Department will base its approval on the relevance of the course work or training to the category or categories of current accreditation. In establishing relevancy, the Department will use standards such as are accepted by the Department of Involvement in Continuing Education (V.O.I.C.E.), Evidence of Continuing Education (E.C.E.), Continuing Medical Education (C.M.E.), and Continuing Education Units (C.E.U.). The Department will also accept relevant course work from accredited colleges and universities to satisfy this requirement.
- 4) Credit for continuing education other than as indicated above shall be granted by the Department if the individual or activity

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sponsor seeks approval of the course or activity and the Department finds that the course or activity will be consistent with courses approved in accordance with subsection (b)(1) of this Section.

- 5) The basis for a unit of continuing education credit shall be the contact hour (50 minutes) of lecture. Activity other than lecture shall be approved for credit by the Department based upon the standards of subsection (b)(3) of this Section.

- 6) In each category of accreditation the applicant for renewal shall have completed a minimum of 6 units of continuing education for each year elapsed since the most recent date of issuance of accreditation, not to exceed 2 two years beyond the expiration of the most recent accreditation, in continuing education in subject matter directly related to radiologic sciences in the applicant's specific category of accreditation. The balance of the requirement may be accomplished either in subject matter directly related to radiologic sciences or in subject matter directly related to patient care in the radiologic environment.

AGENCY NOTE: Applicants may refer to 48t- Appendix B of this Part for examples of specifically related continuing education subjects by category.

c) Nonrenewal of Accreditation

- 1) The Department shall not renew an individual's accreditation if he/she fails to present satisfactory evidence that he/she possesses the necessary qualifications for accreditation, and that he/she has participated in an approved continuing education program in accordance with this Part.
- 2) If the Department does not find satisfactory evidence that the individual meets these requirements, the Department shall, within ninety- 90 days after of receipt of the application for renewal of accreditation or the expiration date of the current accreditation, whichever is later, send the individual a Notice of Intent Not to Renew Accreditation. This notice shall include the areas areas of deficiency and the individual's rights as set forth in this Section.
- 3) The individual, at any time while an application is pending, may submit additional information to the Department in order to establish that the identified areas of deficiency have been met or corrected. may- within-fifteen-(15)-days-of-the-date-of receipt-of-the-Notice-of-Intent-Not-to-Renew-Accreditation- resubmit-an-application-for-renewal-of-accreditation-which provides-additional-information-to-the-Department-in-order-to establish-that-the-identified-areas-of-deficiency-have-been-met or-corrected--the-Department-shall-act-upon-such-renewal-submission within-thirty-(30)-days-of-receipt--Submission-of-such-an application-shall-hold-the-prior-accreditation-valid-until-the-Department-acts-on-the-application-
- 4) If the applicant does not provide additional information to the

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Department within the time frame specified in the After-receipt of-a Notice of Intent Not to Renew Accreditation, the Department shall issue a Notice of Accreditation Denied. in-accordance-with subsections-(c)(2)-or-(c)(3)-the-individual-may-request-a hearing--Such-request-must-be-made-within-thirty-(30)-days-of-the-date-of-receipt-of-the-Notice-of-Intent-Not-to-Renew Accreditation--the-hearing-shall-be-held-in-accordance-with-32 Ill-Adm-Code-200.70-except-that-the-applicant-shall-have-the burden-of-proof-of-establishing-that-he/she-has-met-the-necessary qualifications-for-renewal-of-accreditation--Submission-of-a request-for-a-hearing-shall-hold-the-prior-accreditation-valid until--the-individuals-receipt--of--a-decision-pursuant-to-the hearing.

- 5) An individual's current credential shall be invalid as of the date of his/her receipt of a Notice of Accreditation Denied pursuant to subsection (c)(4) of this Section. After the Department has sent the Notice of Accreditation Denied, the individual may request a hearing within 30 days in accordance with 32 Ill. Adm. Code 200.70. The individual shall have the burden of proof in accordance with 32 Ill. Adm. Code 200.150. If the-applicant-does-not-request-a-hearing-within-thirty-(30)-days of-receipt-of-a-Notice-of-Intent-Not-to-Renew-Accreditation--in accordance-with-subsections-(c)(2)-or-(c)(3)-the-Department shall-issue-a-Notice-of-Nonrenewal- An-individuals-current-credential-shall-be-invalid-as-of-the date-of-his/her-receipt-of-a-Notice-of-Nonrenewal-pursuant-to subsection-(c)(5)-or--a-decision-issued-after-a-hearing--in accordance-with-subsection-(c)(4)-

- 7) If an individual's accreditation is not renewed, he/she shall have the right at any time to submit an application for renewal of accreditation. Such application shall be reviewed and processed in accordance with the requirements of this Section except that an individual may not legally apply ionizing radiation to human beings until and unless the Department has acted to grant such application for renewal of accreditation.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 401.170 Civil Penalties

- a) The Department shall assess civil penalties, in accordance with subsections (c) and (d) of this Section, against any person who performs, and against the operator of the radiation installation where a person performs, medical radiation procedures without valid accreditation, unless the person performing the medical radiation procedures is specifically exempt from the accreditation requirements as specified in Section 401.30 of this Part.

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- b) Prior to assessing civil penalties, the Department shall confirm the violation of the accreditation requirements by:
- 1) Observation of the violation by ~~an~~ **Departmental Inspector or nondepartmental inspector**;
 - 2) Obtaining records, documents, or other physical evidence;
 - 3) Obtaining statements from either the employer, or the employee which confirm the existence of the violation; or
 - 4) Obtaining statements from third parties, e.g., patients or co-workers, that corroborate the allegation that a violation has occurred.
- c) Civil penalties **Penalties** shall be assessed against persons who perform medical radiation procedures without valid accreditation ~~for an unaccredited technologist~~ as follows:
- 1) First violation by an individual: **unaccredited-technologist**
 - A) Failure to apply for initial or renewal of accreditation by a person **technologist** who is fully qualified for accreditation or renewal of accreditation, including continuing education requirements at the time the violation is discovered.
 - i) In violation 30 days or less \$100
 - ii) In violation 31 through 90 days \$150
 - iii) In violation greater than 90 days \$250
 - B) Failure to apply for renewal of accreditation by a person **technologist** who would be eligible for renewal of accreditation, but would not currently qualify due to insufficient continuing education at the time the violation is discovered.
 - i) In violation 30 days or less \$150
 - ii) In violation 31 through 90 days \$250
 - iii) In violation greater than 90 days \$350
 - C) Performance of a medical radiation procedure requiring accreditation by a person who is not qualified for accreditation at the time the violation is discovered \$500
 - 2) Second violation by an individual **unaccredited-technologist** shall be double the fine as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section. The penalty for second violations by an individual **unaccredited-technologist** under subsection (c)(1)(C) of this Section shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81.
 - 3) The penalty for the third and subsequent violations by an individual **unaccredited-technologist**, under subsections (c)(1)(A), (c)(1)(B) and/or (c)(1)(C) of this Section, shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81.
 - 4) The penalty for any violation involving presentation of falsified accreditation certificates or any other documents used to meet

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- accreditation qualifications shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81.
- d) Civil Penalties shall be assessed against the operators of a radiation installation where a person performs medical radiation procedures without valid accreditation as follows:
- 1) First violation by an operator for violation by an individual **unaccredited-technologist** as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section shall be double the fine assessed against the person performing radiography without accreditation.
 - 2) Second and subsequent violations by an operator ~~within a 12 month period~~ for violation by an individual **unaccredited-technologist** as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section shall not exceed \$10,000. The Director shall assess the amount of the penalty in accordance with the provisions of 32 Ill. Adm. Code 310.81.
 - 3) Operators who are assessed civil penalties for violations by an individual **unaccredited-technologist** under subsection (c)(1)(C) of this Section shall not exceed \$10,000. The Director shall assess the amount of the penalty in accordance with provisions of 32 Ill. Adm. Code 310.81.
 - e) The Department shall impose civil penalties by issuing a Preliminary Order and Notice of Opportunity for Hearing as provided in 32 Ill. Adm. Code 200.60. Each day the violation continues shall constitute a separate offense.
 - f) Failure of an operator of a radiation installation to abate an accreditation violation or to pay a properly assessed civil penalty, shall cause the Department to issue an order prohibiting the use of any source of radiation at the installation until such time as the violation has been abated and all assessed civil penalties have been paid.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Quality Standards and Certification Requirements for Facilities Performing Mammography

2) Code Citation: 32 Ill. Adm. Code 370

3) Section Number: Adopted Action:

370.10 Amendment
370.20 Amendment
370.40 Amendment
370.50 Amendment
370.60 Amendment
370.70 Amendment
370.80 Amendment
370.90 Amendment
370.110 Amendment
370.130 Amendment
370.140 Amendment
370.145 New Section
370.165

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

5) Effective Date of Amendments: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: August 11, 2000 (24 Ill. Reg. 11726)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

- a) In Section 370.165(a), (b), (c), and (d), by changing "Has" to "has" ;
b) In Section 370.165(c), by changing "and" to "or" ; and
c) In Section 370.165(d), by replacing proposed language with:

"d) Has refused a reasonable request of a Department representative for permission to inspect the facility or the operations and

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pertinent records of the facility.
The Department shall notify the certifying entity of the facts and circumstances and may take other actions as may be appropriate under Sections 36, 38 or 40 of the Radiation Protection Act of 1990 [420 ILCS 40/36, 38, and 40] of this Chapter."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will: (1) add two new Sections for mobile mammography facilities certified by another certifying entity; (2) make continuing experience requirements for radiologic technologists and medical physicists consistent with FDA deadlines; (3) provide, consistent with current FDA regulations, for the notification of patients by facilities of the results of mammography examinations within 30 days after the mammogram; (4) provide for the issuance of a one-time interim certificate to a facility if a delay in reaccreditation occurs through no fault of the facility; and (5) clarify requirements for beam-limiting devices by prohibiting the x-ray field of a beam-limiting device from extending beyond the chest wall edge of the image receptor by more than a specified distance.

16) Information and questions regarding these adopted amendments shall be directed to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

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adequately and consistently evaluated for compliance with the standards provided in this Part. The provisions of this Part are in addition to and not in substitution for other applicable provisions of 32 Ill. Adm. Code 310, 320, 340, 400, 401 and 410.

~~AGENCY-NRTP--The Department recognizes that some of the standards in this Part and PBA's final mammography rule are more restrictive than the standards in PBA's interim mammography rule that is effective until April 26, 1999--in enforcing a new or more restrictive provision than that found in PBA's interim rules--the Department, in accordance with 32 Ill. Adm. Code 310, will consider whether the violation would have been a violation of PBA's interim rules or the Radiation Protection Act of 1990.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.20 Definitions

As used in this Part, the following definitions apply:

"Accreditation body" or "body" means an entity that has been approved by FDA to accredit mammography facilities.

"Action limits" or "action levels" means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action shall be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

"Adverse event" means an undesirable experience associated with mammography activities that include but are not limited to:

Poor image quality;

Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

Use of personnel that do not meet the requirements of Section 370.70 of this Part.

"Air kerma" means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For x-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 rad.

"Breast implant" means a prosthetic device implanted in the breast.

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TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 370
QUALITY STANDARDS AND CERTIFICATION REQUIREMENTS
FOR FACILITIES PERFORMING MAMMOGRAPHY

Section	
370.10	Scope
370.20	Definitions
370.30	Incorporations by Reference
370.40	Exemptions
370.50	Requirements for Certification
370.60	Fees
370.70	Personnel Requirements
370.80	Equipment Requirements
370.90	Medical Records and Mammography Reports
370.100	Quality Assurance Requirements
370.110	Equipment Quality Assurance Tests
370.120	Additional Administrative Requirements
370.130	Mammography Medical Outcomes Audit
370.140	Additional Mammography Review and Patient Notification
370.145	Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Entity
370.150	Revocation of Accreditation and Revocation of Accreditation Body Approval
370.160	Suspension or Revocation of Certificates
370.165	Failure of Mobile Mammography Facilities Certified by Another Certifying Entity to Meet Requirements
370.170	Mammography Units Used for Localization or Biopsy Procedures

APPENDIX A	Mammography Dose Measurement Protocol
APPENDIX B	Mammography Phantom Image Evaluation
TABLE A	Mammography Dose Evaluation Table

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Old Part repealed at 15 Ill. Reg. 10846, effective July 15, 1991; new Part adopted by emergency rule at 22 Ill. Reg. 14972, effective August 3, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21915, effective December 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 370.10 Scope

This Part establishes quality standards and certification requirements for facilities performing mammography to ensure that all mammography facilities are

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"Calendar quarter" means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30 or October 1 through December 31.

"Category I" means medical educational activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA), a state medical society or an equivalent organization.

"Certificate" means the certificate described in Section 370.50 of this Part.

"Certification" means the process of approval of a facility by the Department to provide mammography services.

"Clinical image" means a mammogram.

"Consumer" means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

"Continuing education unit" or "continuing education credit" means one contact hour of training.

"Contact hour" means an hour of training received through direct instruction.

"Department" means the Department of Nuclear Safety.

"Diagnostic mammography" means mammography performed on a patient with:

clinical signs, symptoms or physical findings suggestive of breast cancer;

an abnormal or questionable screening mammogram;

a history of breast cancer with breast conservation surgery regardless of absence of clinical breast signs, symptoms or physical findings; or

augmented breasts regardless of absence of clinical breast signs, symptoms or physical findings.

AGENCY NOTE: Diagnostic mammography is also called problem-solving mammography or consultative mammography. This definition excludes mammography performed during invasive interventions for localization

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or biopsy procedures.

"Direct instruction" means:

Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations or reviews student performance; or

The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

"Direct supervision" means that:

During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient's records; or

During the performance of a mammography examination or survey of the facility's equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

"Director" means the Director of the Department of Nuclear Safety.

"Established operating level" means the value of a particular quality assurance parameter that has been established as an acceptable normal level by the facility's quality assurance program.

"Facility" or "mammography installation" means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician or other facility that conducts mammography activities, including operation of equipment to produce a mammogram, processing of the mammogram, initial interpretation of the mammogram and maintaining viewing conditions for that interpretation.

"First allowable time" means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body.

"FDA" means the Food and Drug Administration.

"Interim regulations" means the regulations entitled "Requirements for Accrediting Bodies of Mammography Facilities" (58 FR 67558-67565) and "Quality Standards and Certification Requirements for Mammography Facilities" (58 FR 67565-67572), published by FDA on December 21,

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1993, and amended on September 30, 1994 (59 FR 49808-49813). These regulations established the standards that had to be met by mammography facilities in order to lawfully operate between October 1, 1994 and April 28, 1999.

"Interpreting physician" means a licensed physician who interprets mammograms and who meets the requirements of Section 370.70(a) of this Part.

"Lead interpreting physician" means the interpreting physician assigned the general responsibility for ensuring that a facility's quality assurance program meets all of the requirements of Sections 370.100, 370.110, 370.120(b) and (c) and 370.130 of this Part. The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

"Mammogram" means radiographic image produced through mammography.

"Mammographic modality" means a technology for radiography of the breast. Examples are screen-film mammography and digital mammography.

"Mammography" means radiography of the breast.

"Mammography equipment evaluation" means an onsite assessment of mammography unit or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards in this Part.

"Mammography medical outcomes audit" means a systematic collection of mammography results and the comparison of those results with outcomes data.

"Mammography unit" or "units" means an assemblage of components for the production of x-rays for use during mammography, including, at a minimum, an x-ray generator, an x-ray control, a tube housing assembly, a beam limiting device and the supporting structures for these components.

"Mean optical density" means the average of the optical densities (OD) measured using phantom thicknesses of 2, 4 and 6 centimeters with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.

"Medical physicist" means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications set forth in Section 370.70(c) of this Part.

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"MQSA" means the federal Mammography Quality Standards Act of 1992, as amended by the Mammography Quality Standards Reauthorization Act of 1998.

"Multi-reading" means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram.

"Patient" means any individual who undergoes a mammography evaluation in a facility.

"Phantom" means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. It is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue) and shall contain the following objects:

Spherical masses, composed of phenolic plastic, with thicknesses of: 2.00, 1.00, 0.75, 0.50 and 0.25 millimeter;

Specks, composed of aluminum oxide, with diameters of: 0.54, 0.40, 0.32, 0.24 and 0.16 millimeter;

Fibers, composed of nylon, with thicknesses of: 1.56, 1.12, 0.89, 0.75, 0.54 and 0.40 millimeter.

AGENCY NOTE: The Mammographic Accreditation Phantom Model 156, manufactured by Radiation Measurements, Inc., meets the above criteria and was chosen for use by the American College of Radiology's Mammography Accreditation Program.

"Phantom image" means a radiographic image of a phantom.

"Physical science" means physics, chemistry, radiation science (including medical physics and health physics) and engineering.

"Positive mammogram" means a mammogram that has an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

"Provisional certificate" means the provisional certificate described in Section 370.50(b) of this Part.

"Qualified instructor" means an individual whose training and experience adequately prepares him or her to carry out specified training assignments. Interpreting physicians, radiologic technologists or medical physicists who meet the requirements of Section 370.70 of this Part would be considered qualified instructors

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in their respective areas of mammography. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the requirements of this Part include, but are not limited to, instructors in a post-high school training institution and manufacturer's representatives.

"Quality control technologist" means an individual meeting the requirements of Section 370.100(a)(4) of this Part who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

"Radiologic technologist" means an individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations and when performing mammography without direct supervision, also meets the requirements set forth in Section 370.70(b) of this Part.

"Screening mammography" means mammography performed on an asymptomatic patient to detect the presence of breast cancer at an early stage.

"Serious adverse event" means an adverse event that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

"Serious complaint" means a report of a serious adverse event.

"Standard breast" means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

"Survey" means an onsite physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.

"Time cycle" means the film development time.

"Traceable to a national standard" means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every 2 years and the results of the proficiency test conducted within 24 months of calibration show agreement within plus or minus 3 percent of the national standard in the mammography energy range.

(Source: Amended at 24 Ill. Reg. 102.2, effective _____)

Section 370.40 Exemptions

a) Mammography units used only during invasive interventions for

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localization or biopsy procedures are exempt from the requirements of this Part, except that such systems shall satisfy the criteria specified in Section 370.170 of this Part.

b) Each mobile mammography facility based outside of Illinois that operates in Illinois and that has not been certified by the Department is exempt from the requirements of Section 370.50 and 370.60 of this Part, provided that:

- 1) The mobile mammography facility is certified to perform mammography by FDA or other FDA-approved certifying agency at all times while conducting operations in Illinois; and
- 2) The mobile mammography facility meets the requirements of Section 370.145 of this Part.

AGENCY NOTE: Mobile mammography facilities exempt under this subsection (b) shall meet the standards of this Part except those Sections specifically exempted.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.50 Requirements for Certification

- a) Except as otherwise provided in subsection (b)(1)(C) of this Section and Section 370.40 of this Part, a certificate issued by the Department is required for lawful operation of all mammography facilities subject to the provisions of this Part. Facilities performing mammography as soon as practicable after the effective date of this Part, the Department will issue a certificate to each facility holding a currently valid certificate issued by PBA under the Mammography Quality Standards Act of 1992, the term of such certificate shall be for the same period of time as the remainder of the term of the certificate issued by PBA. Certificate-holding facilities shall meet the requirements of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part and be accredited by an FDA-approved accreditation body.

AGENCY NOTE: Currently, the only FDA-approved accrediting body in Illinois is the American College of Radiology. AGENCY NOTE: This subsection (a) is intended to facilitate the transition from PBA-issued certificates under MBSA to Department-issued certificates implementing a State program under MBSA. The Department recognizes that facilities with currently valid PBA-MBSA certificates have met the standards for certificate issuance required by PBA and this Part.

AGENCY NOTE: Except for the initial "grandfathered" certificates issued to facilities holding PBA certificates and except for provisional certificates and interim notices to new facilities issued under this Section, the term of certificates issued under this Section shall be for 3 years. Applications for all other certificates shall be made in accordance with this Section.

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b) Application.

1) Certificates.

- A) In order to qualify for a certificate, a facility shall apply to an FDA-approved accreditation body.
- B) Following the Department's receipt of the accreditation body's decision to accredit a facility, the Department may issue a certificate to the facility, or renew an existing certificate, if the Department determines that the facility has satisfied the requirements for certification or recertification.

C) The Department may issue an interim notice of mammography certification by facsimile to a facility if a delay is anticipated in providing a certificate to the facility under one or more of the following circumstances:

- i) The Department has been notified by an accreditation body that the facility meets the requirements for a provisional or provisional reinstatement certificate and delivery of the certificate may take more than 24 hours;

ii) The Department has been notified by an accreditation body that the facility has completed accreditation or reaccreditation and delivery of the certificate to the facility may take more than 24 hours; or

- iii) The Department has been notified by an accreditation body that the facility has timely submitted an application for accreditation or reaccreditation but the completion of the accreditation process may extend beyond the expiration date of a facility's existing certificate through no fault of the facility.

An interim notice shall authorize the facility to perform mammography until the facility receives its certificate but in no case for more than 45 days. No more than one interim notice may be issued to a facility per application for certification.

- 2) Provisional certificates. A new facility is eligible to apply for a provisional certificate. The provisional certificate will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process.

A) To receive a provisional certificate, a facility shall apply and submit the required information to an FDA-approved accreditation body.

- B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a provisional certificate to a facility upon determination that the facility has satisfied the requirements for provisional certification. A provisional certificate shall be effective for up to 6 months from the date of issuance. A provisional

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certificate cannot be renewed, but a facility may apply for a 90 day extension of the provisional certificate.

- 3) Extension of provisional certificate.

- A) To apply for a 90 day extension to a provisional certificate, a facility shall submit to its accreditation body a statement of what the facility is doing to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if such facility did not obtain an extension.
- B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a 90 day extension of the provisional certificate to the facility upon determination that the facility has satisfied the requirements for the 90 day extension.
- C) There can be no renewal of a provisional certificate beyond the 90-day extension.

- c) Reinstatement policy. A previously certified facility that has allowed its certificate to expire, that has been refused a renewal of its certificate by FDA or the Department, or that has had its certificate suspended or revoked by FDA or the Department, may apply for reinstatement. If reinstated, the facility will be eligible for a provisional certificate.

- 1) Unless prohibited from reinstatement under subsection (c)(4) of this Section, a facility applying for reinstatement shall:

A) Contact an FDA-approved accreditation body to determine the requirements for reapplication for accreditation;

- B) Fully document its history as a previously provisionally certified or certified mammography facility, including the following information:

- i) Name and address of the facility under which it was previously provisionally certified or certified;
- ii) Name of previous owner/lessor;
- iii) Facility identification number assigned to the facility under its previous certification; and
- iv) Expiration date of the most recent provisional certificate or certificate; and

- C) Justify application for reinstatement of accreditation by submitting to the accreditation body a corrective action plan that details how the facility has corrected deficiencies that contributed to the lapse, denial of renewal or revocation of its certificate.

- 2) The Department may issue a provisional certificate to a previously certified facility:

- A) Following the Department's receipt of the accreditation body's decision that a facility has adequately corrected, or is in the process of correcting, pertinent deficiencies at the facility; and

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B) The Department determines that the facility has taken sufficient corrective action since the lapse, denial or renewal or revocation of its previous certificate.

3) After receiving the provisional certificate, the facility may lawfully resume performing mammography services while completing the requirements for certification.

4) If a facility's certificate was revoked on the basis of an act described in Section 370.160 of this Part, no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years after the date of revocation.

d) Appeals of adverse accreditation or reaccreditation decisions. The appeals procedures described in this subsection (d) are available only for adverse accreditation or reaccreditation decisions that preclude certification or recertification by the Department.

1) Upon learning that a facility has failed to become accredited or reaccredited, the Department will notify the facility that the Department is unable to certify that facility without proof of accreditation.

2) A facility that has been denied accreditation or reaccreditation is entitled to an appeals process from the accreditation body. A facility shall avail itself of the accreditation body's appeal process before appealing that decision to the Department.

3) In the event that a facility, after availing itself of the accreditation body's appeal process, receives an adverse accreditation or reaccreditation decision, the facility may within 30 days after such adverse decision submit a request for review of the adverse accreditation or reaccreditation decision to the Department.

4) Within 30 days following receipt of such written request, the Department shall issue a Preliminary Order and Notice of Opportunity for Hearing to the facility in accordance with 32 Ill. Adm. Code 200 stating the basis for the denial of certification or recertification.

5) Upon issuance of the Preliminary Order and Notice of Opportunity for Hearing, such provisions of 32 Ill. Adm. Code 200 shall apply as may be applicable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.60 Fees

a) Except as provided in subsection (b) of this Section, the Department shall assess each certified mammography installation an annual certification fee of \$750 in each State fiscal year (July 1 - June 30). The Department shall bill the mammography installation for the annual fee after July 1. The annual fee shall be due and payable

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within 60 days after the date of billing. Failure to pay the required fee may result in revocation of the certificate.

AGENCY NOTE: For ~~mammography~~ ~~installations~~ ~~holding valid PPA mammography certificates on the effective date of this Part~~ ~~the initial annual fee shall be billed as soon as practicable after the effective date of this Part~~. The annual fee described in subsection (a) of this Section applies to both fully and provisionally certified mammography installations.

b) A new mammography installation issued an initial provisional certificate after December 31 of any State fiscal year shall not be required to pay a certification fee for that State fiscal year.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.70 Personnel Requirements

Personnel. The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

a) Interpreting physicians. All physicians interpreting mammograms shall meet the following qualifications:

1) Initial qualifications. Unless the exemption in subsection (a)(3) of this Section applies, before beginning to interpret mammograms independently, the interpreting physician shall:

A) Be a physician licensed under the Medical Practice Act of 1987 to practice medicine in all its branches [225 ILCS 60];

B) Be certified in diagnostic radiology by either the American Board of Radiology, the American Osteopathic Board of Radiology, or Royal College of Physicians and Surgeons of Canada or have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects and radiation protection. The mammographic interpretation component shall be under the direct supervision of a physician who meets the requirements of subsection (a) of this Section;

C) Have a minimum of 60 hours of documented medical education in mammography, which shall include instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography and quality assurance and quality control in mammography. All 60 of these hours shall be Category I and at least 15 of the Category I hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours

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spent in residency specifically devoted to mammography will be considered as equivalent to Category I continuing medical education credits and will be accepted if documented in writing by the appropriate representative of the training institution; and

- D) Unless the exemption in subsection (a)(3) of this Section applies, have interpreted or multi-read at least 240 mammographic examinations within the 6 month period immediately prior to the date that the physician qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician.

- 2) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:

- A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have interpreted or multi-read at least 960 mammographic examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

- B) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have taught or completed at least 15 Category I continuing medical education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period. This training shall include at least 6 Category I continuing medical education credits in each mammographic modality used by the interpreting physician in his or her practice.

- C) Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality, that is, a mammographic modality in which the physician has not previously been trained, the interpreting physician shall have at least 8 hours of training in the new mammographic modality.

- D) Units earned through teaching a specific course can be counted only once towards the 15 units required by subsection (a)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

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3) Exemptions.

- A) Those physicians who qualified as interpreting physicians under FDA's interim regulations prior to April 28, 1999, are considered to have met the initial requirements of subsection (a)(1) of this Section. These physicians may continue to interpret mammograms provided they continue to meet the requirements of subsection (a)(1) of this Section and the continuing experience and education requirements of subsection (a)(2) of this Section.

- B) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6 month period during the last 2 years of a diagnostic radiology residency and who become appropriately board certified at the first allowable time, as defined by an eligible certifying body, are otherwise exempt from subsection (a)(1)(D) of this Section.

- 4) Reestablishing qualifications. Interpreting physicians who fail to maintain the required continuing experience or continuing education requirements of subsection (a)(2) of this Section, shall reestablish their qualifications before resuming the independent interpretation of mammograms as follows:

- A) Interpret or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician, or interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to 960 examinations for the prior 24 months, whichever is less.

- B) Interpreting physicians who fail to meet the continuing education requirements of subsection (a)(2)(B) of this Section shall obtain a sufficient number of additional Category I continuing medical education credits in mammography to bring their total up to the required 15 credits in the previous 36 months before resuming independent interpretation.

- C) The interpretations required under this Section shall be done within the 6 months immediately prior to resuming independent interpretation.

- b) Radiologic technologists who perform mammographic examinations shall be accredited by the Department and shall meet the following:

1) Training requirements.

- A) Have, prior to April 28, 1999, qualified as a radiologic technologist under FDA's interim regulations; or

- B) Complete at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not necessarily be limited to:

- i) Training in breast anatomy and physiology, positioning

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and compression, quality assurance/quality control techniques and imaging of patients with breast implants;

ii) The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under subsection (b) of this Section; and

iii) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams.

2) Continuing education requirements.

A) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed, the radiologic technologist who performs mammography shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period.

B) Units earned through teaching a specific course can be counted only once towards the 15 hours of continuing education requirements required in subsection (b)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

C) At least 6 of the continuing education units required in subsection (b)(2) of this Section shall be related to each mammographic modality used by the technologist.

D) Requalification. Radiologic technologists who fail to meet the continuing education requirements of subsection (b)(2)(A) of this Section shall obtain a sufficient number of continuing education units in mammography to bring their total up to at least 15 in the previous 3 years, at least 6 of which shall be related to each modality used by the technologist in mammography. The technologist shall not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

E) Before a radiologic technologist may begin independently performing mammography examinations using a mammographic modality other than one of those for which the technologist received training under subsection (b)(1)(B)(iii) of this Section, the technologist shall have at least 8 hours of continuing education units in the new modality.

3) Continuing experience requirements.

A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed or of April 28, 1999 October---20---1997, whichever is later, the radiologic

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technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Requalification. Radiologic technologists who fail to meet the continuing experience requirements of subsection (b)(3)(A) of this Section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist before resuming the performance of unsupervised mammography.

C) Programs, courses or other activities intended to meet the requirement for initial, or requalification, mammography training or continuing education in mammography shall be approved by the Department.

D) Completion of initial, or requalification, mammography training and continuing education in mammography shall be verified to the Department.

c) Medical physicists. All medical physicists conducting surveys of mammography facilities and providing oversight of the facility quality assurance program shall be approved by the Department as diagnostic imaging specialists pursuant to 32 Ill. Adm. Code 410, and meet the following:

1) Initial qualifications.

A) Be approved--by--the--Department--as--diagnostic---imaging specialists--pursuant--to--32--ill--Adm--Code--360-20--or--be certified in diagnostic radiological physics or radiological physics by either the American Board of Radiology (ABR) or the American Board of Medical Physics (ABMP):

B) Have a masters degree or higher in a physical science from an accredited institution, with no less than 20 semester hours or equivalent (e.g., 30 quarter hours) of college undergraduate or graduate level physics;

C) Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 28, 1999, experience conducting surveys shall be acquired under the direct supervision of a medical physicist who meets all the requirements of subsections (c)(1), (c)(2) and (c)(3) of this Section.

2) Alternative initial qualifications.

A) Have qualified as a medical physicist under FDA's interim

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regulations and retained that qualification by maintenance of the active status of any licensure, approval or certification required;

- B) Have, prior to April 28, 1999, obtained a bachelor's degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics;

- C) Have 40 contact hours of documented specialized training in conducting surveys of mammography facilities; and

- D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements shall be met after fulfilling the degree requirement.

- 3) Continuing education and experience. All medical physicists shall maintain their qualifications by meeting the following requirements:

- A) Continuing education. Beginning 3 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed, the medical physicist shall have taught, or completed, at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 36 month period. This continuing education shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys or oversight of quality assurance programs. Units earned through teaching a specific course can be counted only once towards the required 15 continuing education units in a 36 month period, even if the course is taught multiple times during the 36 months.

- B) Continuing experience. Beginning 2 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed or of April 28, 1999 ~~October-28-1997~~, whichever is later, the medical physicist shall have surveyed at least 2 mammography facilities and a total of at least 6 mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 24 month period. No more than one

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survey of a specific facility within a 10 month period or a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

- C) Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one for which the physicist received training to qualify under subsection (c)(1) or (c)(2) of this Section, the physicist shall receive at least 8 hours of training in surveying units of the new mammographic modality.

- 4) Reestablishing qualifications. Medical physicists who fail to maintain the required continuing education and experience qualifications of subsection (c)(3) of this Section may not perform the MQSA surveys without the supervision of a qualified medical physicist. Before independently surveying another facility, medical physicists shall reestablish their qualifications, as follows:

- A) Medical physicists who fail to meet the continuing educational requirements of subsection (c)(3)(A) of this Section shall obtain a sufficient number of continuing education units to bring their total units up to the required 15 units in the previous 3 years.

- B) Medical physicists who fail to meet the continuing experience requirement of subsection (c)(3)(B) of this Section shall complete a sufficient number of surveys under the direct supervision of a medical physicist who meets the qualifications of subsection (c)(1) or (c)(2) of this Section, to bring their total surveys up to the required 2 facilities and 6 units in the previous 24 months. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

- d) Retention of personnel records. Facilities shall maintain records to document the qualifications of all personnel who worked at the facility as interpreting physicians, radiologic technologists or medical physicists. These records shall be available for review by the Department. Records of personnel no longer employed by the facility shall not be discarded until the next annual inspection has been completed and the Department has determined that the facility is in compliance with the personnel requirements of this Section.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.80 Equipment Requirements

The equipment requirements of this Section are intended to ensure that mammography equipment is capable of producing quality mammograms over the full

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range of clinical conditions.

- a) Prohibited equipment. Radiographic equipment designed for general purpose shall not be used for mammography. Mammography shall only be performed with a special purpose radiation machine specifically designed for and used solely for mammography procedures.
- b) General. All radiographic equipment used for mammography shall be certified under the "Performance Standards for Diagnostic X-Ray Systems and their Major Components," published at 21 CFR 1020.30, effective as of April 1, 1997.
- c) Motion of tube-image receptor assembly.
 - 1) The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion.
 - 2) The mechanism ensuring compliance with subsection (c)(1) of this Section shall not fail in the event of power interruption.
- d) Image receptor sizes.
 - 1) Systems using screen-film image receptors shall provide, at a minimum, for operation with image receptors of 18 x 24 centimeters (cm) and 24 x 30 cm.
 - 2) Systems using screen-film image receptors shall be equipped with moving grids matched to all image receptor sizes provided.
 - 3) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.
- e) Beam limitation and light fields.
 - 1) All systems shall have beam-limiting devices that--allow--the useful--beam--to--extend--to--or--beyond--the--chest--wall--edge--of--the image--receptor.
 - 2) For any mammography system with a light beam that passes through the x-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.
- f) Magnification.
 - 1) Systems used to perform noninterventional problem solving procedures shall have radiographic magnification capability available for use by the operator.
 - 2) Systems used for magnification procedures shall provide, at a minimum, at least one magnification value within the range of 1.4 to 2.0.
- g) Focal spot selection.
 - 1) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.
 - 2) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.
 - 3) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the

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- target material and/or focal spot actually used during the exposure.
- h) Compression. All mammography systems shall incorporate a compression device.
 - 1) Application of compression. Effective October 28, 2002, each system shall provide:
 - A) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and
 - B) Fine adjustment compression controls operable from both sides of the patient.
 - 2) Compression paddle.
 - A) Systems shall be equipped with different sized compression paddles that match the sizes of all full-field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for "spot compression") may be provided. Such compression paddles for special purposes are not subject to the requirements of subsections (h)(2)(D) and (h)(2)(E) of this Section.
 - B) Except as provided in subsection (h)(2)(C) of this Section, the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.
 - C) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression shall meet the manufacturer's design specifications and maintenance requirements.
 - D) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor.
 - E) The chest wall edge may be bent upward to allow for patient comfort but shall not appear on the image.
- i) Technique factor selection and display.
 - 1) Manual selection of milliamperes seconds (mAs) or at least one of its component parts (milliampere (mA) and/or time) shall be available.
 - 2) The technique factors (peak tube potential in kilovolt (kV) and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs) to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls (AEC) are used, in which case the technique factors that are set prior to the exposure shall be indicated.
 - 3) Following AEC mode use, the system shall indicate the actual kilovoltage peak (kVp) and mAs used during the exposure. The mAs may be displayed as mA and time.
- j) Automatic exposure control.
 - 1) Each screen-film system shall provide an AEC mode, that is

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operable in all combinations of equipment configuration provided, e.g., grid, nongrid, magnification, nonmagnification and various target-filter combinations.

- 2) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.

A) The size and available positions of the detector shall be clearly indicated at the x-ray input surface of the breast compression paddle.

B) The selected position of the detector shall be clearly indicated.

3) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

k) X-ray film. The facility shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

l) Intensifying screens. The facility shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.

m) Film processing solutions. For processing mammography films, the facility shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

n) Lighting. The facility shall make special lights for film illumination, i.e., hot-lights, capable of producing light levels greater than that provided by the view box, available to the interpreting physicians.

o) Film masking devices. Facilities shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.90 Medical Records and Mammography Reports

a) Contents and terminology. Each facility shall prepare a written report of the results of each mammography examination performed under its certificate. The mammography report shall include the following information:

- 1) The name of the patient and an additional patient identifier;
- 2) Date of examination;
- 3) The name of the interpreting physician who interpreted the mammogram;
- 4) Overall final assessment of findings, classified in one of the following categories:

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A) "Negative." Nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

B) "Benign." Also a negative assessment;

C) "Probably Benign." Finding(s) has a high probability of being benign;

D) "Suspicious." Finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

E) "Highly suggestive of malignancy." Finding(s) has a high probability of being malignant;

5) In cases where no final assessment category can be assigned due to incomplete work-up, "Incomplete: Need additional imaging evaluation" shall be assigned as an assessment and reasons why no assessment can be made shall be stated by the interpreting physician; and

6) Recommendations made to the health care provider about what additional actions, if any, should be taken. All clinical questions raised by the referring health care provider shall be addressed in the report to the extent possible, even if the assessment is negative or benign.

b) Communication of mammography results to the patient. Each facility shall send each patient a summary of the mammography report written in lay terms within 30 days after the mammographic examination ~~maintain a system to ensure that the results of each mammographic examination are communicated to the patient in a timely manner.~~ If assessments are "Suspicious" or "Highly suggestive of malignancy" ~~and the patient has not named a health care provider,~~ the facility shall make reasonable attempts to ensure that the results are communicated to the patient as soon as possible.

1) ~~Patients as soon as possible, but no later than 90 days after the date of the mammography examination; patients who do not name a health care provider to receive the mammography report shall be sent the report described in subsection (a) of this Section within 30 days, in addition to the written notification of results in lay terms.~~

2) Each facility that accepts patients who do not have a health ~~primary~~ care provider shall maintain a system for referring such patients to a health care provider when clinically indicated.

c) Communication of mammography results to health care providers. When the patient has a referring health care provider or the patient has named a health care provider, the facility shall:

- 1) Provide a written report of the mammography examination, including the items listed in subsection (a) of this Section, to that health care provider as soon as possible, but no later than 30 days after the date of the mammography examination; and
- 2) If the assessment is "Suspicious" or "Highly suggestive of malignancy," make reasonable attempts to communicate with the

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health care provider as soon as possible, or if the health care provider is unavailable, to a responsible designee of the health care provider.

d) Recordkeeping. Each facility that performs mammograms:

- 1) Shall (except as provided in subsection (c)(2) of this Section) maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility;
- 2) Shall upon request by, or on behalf of, the patient permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, or to a physician or health care provider of the patient, or to the patient directly. Any fee charged to the patient for providing the services in this subsection (d) shall not exceed the documented costs associated with this service.

e) Mammographic image identification. Each mammographic image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

- 1) Name of patient and an additional patient identifier.
- 2) Date of examination.
- 3) View and laterality. This information shall be placed on the image in a position near the axilla. Standardized codes specified by the accreditation body shall be used to identify view and laterality.
- 4) Facility name and location. At a minimum, the location shall include the city, state and zip code of the facility.
- 5) Technologist identification.
- 6) Cassette/screen identification.
- 7) Mammography unit identification, if there is more than one unit in the facility.

(Source: Amended at 24 Ill. Reg. 18.0.0, effective _____)

Section 370.110 Equipment Quality Assurance Tests

- a) Daily quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that examinations are performed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density and density difference, using the mammography film used clinically at the facility.

- 1) The base plus fog density shall be within plus 0.03 of the established operating level.

- 2) The mid-density shall be within plus or minus 0.15 of the established operating level.
- 3) The density difference shall be within plus or minus 0.15 of the established operating level.
- b) Weekly quality control tests. Facilities with screen-film systems shall perform a phantom image quality evaluation test at least weekly, using the Mammography Image Evaluation Protocol found in Appendix B of this Part.

- 1) The optical density of the film at the center of an image of the phantom shall be at least 1.20 when exposed under a typical clinical condition.
- 2) The optical density of the film at the center of the phantom image shall not change by more than plus or minus 0.20 from the established operating level.
- 3) The mammography system shall be capable of producing images of the mammography phantom in which the following objects are visualized:

- A) The three largest masses with thicknesses of 2.0, 1.0 and 0.75 millimeter.
- B) The three largest speck groups with diameters of 0.54, 0.40 and 0.32 millimeter.
- C) The four largest fibers with thicknesses of 1.56, 1.12, 0.89 and 0.75 millimeter.
- 4) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.

c) Quarterly quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least quarterly:

- 1) Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square cm.
- 2) Repeat analysis. If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reason(s) for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

d) Semiannual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least semiannually:

- 1) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.20, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.
- 2) Screen-film contact. Testing for screen-film contact shall be

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conducted using 40 mesh copper screen. All cassettes used in the facility for mammography shall be tested.

- 3) Compression device performance. The compression device performance shall:

- A) Be capable of maintaining a compression force of at least 111 newtons (25 pounds) for at least 15 seconds;
- B) Not be capable of exceeding a compression force of more than 209 newtons (47 pounds) when used in an automatic or power drive mode.

- e) Annual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least annually:

- 1) Automatic exposure control performance.

- A) The AEC shall be capable of maintaining film optical density within plus or minus 0.30 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different breast thicknesses and compositions that shall be used so that optical densities within plus or minus 0.30 of the average under phototimed conditions can be produced.

- B) After October 28, 2002, the AEC shall be capable of maintaining film optical density within plus or minus 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility.

- C) The optical density of the film in the center of the phantom image shall not be less than 1.20.

- 2) Kilovoltage peak accuracy and reproducibility. The kVp shall be accurate within plus or minus 5 percent of the indicated or selected kVp at:

- A) The lowest clinical kVp that can be measured by a kVp test device;
- B) The most commonly used clinical kVp;
- C) The highest available clinical kVp; and
- D) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

- 3) Focal spot dimensions. Until October 28, 2002, focal spot condition shall be evaluated by measuring focal spot dimensions or by determining system resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution. For focal spot dimensions, the measured values of the focal spot length (dimension parallel to the anode cathode axis) and width (dimension perpendicular to

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the anode-cathode axis) shall be within the tolerance limits specified in this subsection (e)(3).

Focal Spot Tolerance Limit

Nominal Focal Spot Size (mm)	Maximum Measured Dimensions	
	Width (mm)	Length (mm)
0.10	0.15	0.15
0.15	0.23	0.23
0.20	0.30	0.30
0.30	0.45	0.65
0.40	0.60	0.85
0.60	0.90	1.30

- 4) System Resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution as follows:

- A) Each x-ray system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeter (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

- B) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.

- C) When more than one target material is provided, the measurement shall be made using the appropriate focal spot for each target material.

- D) When more than one source-image receptor distance is provided, the test shall be performed at SID most commonly used clinically.

- E) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette combination used by the facility shall be used to test for this requirement and shall be placed in the normal location used for clinical procedures.

- 5) Beam quality and half-value layer (HVL). For mammography systems operating at x-ray tube potentials of less than 50 kVp, the HVL in millimeters of aluminum of the useful beam shall be equal to or greater than the product of the measured tube potential in kilovolts multiplied by 0.01. The half-value layer shall be measured with the compression device in the beam and shall be

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measured at the same tube potential used in Appendix A of this Part, Mammography Dose Measurement Protocol, and Appendix B of this Part, Mammography Phantom Image Evaluation.

AGENCY NOTE: If the measured half-value layer is significantly greater than the specified minimum, image contrast will be reduced and overall image quality will be degraded. For screen-film mammography systems, it is recommended that the HVL not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum, as specified in the American College of Radiology; Mammography Quality Control for Medical Physicists, Revised Edition, 1994.

6) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

7) Dosimetry. The average glandular dose delivered during a single craniocaudal view of a phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast (see Appendix A of this Part).

8) X-ray field/light field/image receptor/compression paddle alignment.

A) All systems shall have beam-limiting devices that allow the entire chest wall edge of the ~~useful~~ x-ray field beam to extend to the chest wall edge of the image receptor and provide means to assure that the x-ray field does not extend or beyond any edge the-edges of the image receptor but by no more than 2 percent of the SID.

B) If a light field that passes through the x-ray beam limitation device is provided, it shall be aligned with the x-ray field so that the total of any misalignment of the edges of the light field and the x-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2 percent of the SID.

C) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than one percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.

9) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.

10) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large

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enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.

11) Radiation output.

A) The system shall be capable of producing a minimum output of 4.5 mGy air kerma per second (513 mR per second) when operating at 28 kVp in the standard mammography (moly/moly) mode at any SID where the system is designed to operate and when measured by a detector with its center located 4.5 cm above the breast support surface with the compression paddle in place between the source and the detector. After October 28, 2002, the system, under the same measuring conditions, shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 mR per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate.

B) The system shall be capable of maintaining the required minimum radiation output averaged over a 3.0 second period.

12) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:

A) An override capability to allow maintenance of compression;

B) A continuous display of the override status; and

C) A manual emergency compression release that can be activated in the event of power or automatic release failure.

f) Quality control tests-other modalities. For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in subsection (e)(7) of this Section.

g) Mobile Units. The facility shall verify that mammography units used to produce mammograms at more than one location meet the requirements in subsections (a) through (f) of this Section. In addition, at each examination location, before any examinations are conducted, mobile mammography systems shall be tested using the mammography phantom image evaluation, or shall meet the following requirements:

1) A medical physicist shall establish a protocol for measurement of the radiation output of the mammography system, including the radiation measuring device to be used, procedures for performing the measurement and the anticipated result of the measurement.

2) Measurements shall be performed using the technique factors that were used for the most recent phantom image evaluation. If a change is made in the technique factors used for the measurements required in this subsection (g)(2), the image quality shall be

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tested using the mammography phantom image evaluation protocol found in Appendix B of this Part.

AGENCY NOTE: If the phantom image evaluation is performed using a phototimer, the medical physicist may specify appropriate technique factors that approximate those used by the phototimer for the measurements required in this Section.

- 3) After each relocation of a mobile mammography system, measurements of the radiation output of the machine shall be performed according to the protocol established in this Section.
- 4) If the radiation output measurement exceeds plus or minus 15 percent of the value established by the medical physicist, the system shall not be used to image human patients until the cause for the variation has been investigated and corrected.

- 5) Records of radiation output measurements for mobile mammography systems shall be maintained at the location of the mammography system for a period of not less than one inspection cycle.

AGENCY NOTE: The Department recommends that mobile mammography systems be tested for image quality after each relocation and prior to use on patients, with mammography phantom image evaluation protocol in Appendix B of this Part.

h) Use of test results.

- 1) After completion of the tests specified in subsections (a) through (g) of this Section, the facility shall compare the test results to the corresponding specified action limits, or for non-screen-film modalities, to the manufacturer's recommended action limits, or for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.

- 2) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken:

- A) Before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in subsection (a), (b), (d)(1), (d)(2), (d)(3), (e)(7), (f) or (g) of this Section;
- B) Within 30 days after the test date for all other tests described in this Section.

i) Surveys.

- 1) At least once a year, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in subsections (e) and (f) of this Section and the weekly phantom image quality test described in subsection (b) of this Section.

- 2) Calibration of air kerma measuring instruments. Instruments used

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by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every 2 years and each time the instrument is repaired. The instrument calibration shall be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.

- 3) The results of all tests conducted by the facility in accordance with subsections (a) through (g) of this Section, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey.

- 4) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

- 5) The survey report shall be sent to the facility within 30 days after the date of the survey.

- 6) The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

- j) Mammography equipment evaluations. Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is disassembled and reassembled at the same or a new location, or major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in this Section and Section 370.80 of this Part. All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.130 Mammography Medical Outcomes Audit

Each facility shall establish and maintain a mammography medical outcomes audit program to follow up positive mammographic assessments and to correlate pathology results with the interpreting physician's findings. This program shall be designed to ensure the reliability, clarity and accuracy of the interpretation of mammograms.

- a) General requirements. Each facility shall establish a system to collect and review outcome data for all mammograms performed,

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including followup on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians at the facility. In addition, any cases of breast cancer among patients imaged at the facility that subsequently become known to the facility shall prompt the facility to initiate followup on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.

- b) Frequency of audit analysis. The facility's first audit analysis shall be initiated no later than 12 months after the date the facility becomes certified, or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be completed within an additional 12 months to permit completion of diagnostic procedures and data collection. Subsequent audit analyses will be conducted at least once every 12 months.

- c) Audit Reviewing interpreting physician. Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period(s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results, notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken, the audit reviewing interpreting physician shall also be responsible for documenting the nature of the followup.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.140 Additional Mammography Review and Patient Notification

- a) If the Department believes that mammography quality at a facility has been compromised and may present a serious risk to human health, the facility shall provide clinical images and other relevant information, as specified by the Department, for review by the accreditation body. This additional mammography review will help the Department to determine whether the facility is in compliance with this Part Section and, if not, whether there is a need to notify affected patients, their physicians or the public that the reliability, clarity and accuracy of interpretation of mammograms has been compromised.

- b) If the Department determines that the quality of mammography performed by a facility, whether or not certified under Section 370.50 of this Part, was so inconsistent with the quality standards established in this Part as to present a significant risk to individual or public health, the Department may require the facility to notify patients who received mammograms at the facility, and their referring physicians, of the deficiencies presenting the risk, the potential harm resulting, appropriate remedial measures and other relevant information as the

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Department may require any activity related to the provision of mammography at a facility may present a serious risk to human health such that patient notification is necessary, the facility shall notify patients or their designees, their physicians or the public of action that may be taken to minimize the effects of the risk. Such notification shall occur within a timeframe and in a manner specified by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.145 Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Entity

Mobile mammography facilities that operate in Illinois and are certified under MQSA by the FDA, or another state authorized by FDA to certify mammography facilities under MQSA, shall:

- a) Notify the Department by telephone, facsimile or letter of each date and location of operation of the mobile mammography facility in Illinois prior to conducting such operation.
- AGENCY NOTE: Notifications submitted by the mobile mammography facility to the Department may contain notice of multiple dates and locations of operation by the mobile mammography facility.
- b) At all times while operating in Illinois, have the following documentation available for review and inspection by the Department:
 - 1) A copy of the mammography facility certificate issued by the FDA or another state, showing that the facility is currently certified.
 - 2) A summary of the most recent physics survey of the mammography machine and documentation of any corrective actions recommended by the medical physicist who performed the physics survey.
 - 3) Documentation that personnel meet the qualifications of Section 370.70 of this Part.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 370.165 Failure of Mobile Mammography Facilities Certified by Another Certifying Entity to Meet Requirements

If the Department has reason to believe that the owner, operator or any employee of a mobile mammography facility certified by another certifying entity:

- a) has been guilty of misrepresentation in obtaining the certificate;
- b) has failed to comply with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 or 370.130 of this Part;
- c) has failed to comply with reasonable requests of the Department for records, information, reports, or materials that the Department

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believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120, 370.130 or 370.140 of this Part; or

d) has refused a reasonable request of a Department representative for permission to inspect the facility or the operations and pertinent records of the facility;

the Department shall notify the certifying entity of the facts and circumstances and may take other actions as may be appropriate under Sections 36, 38 or 40 or the Radiation Protection Act of 1990 [420 ILCS 40/36, 38, and 40] and this Chapter.

(Source: Added at 24 Ill. Reg. _____, effective _____.)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Adopted Action:
148.40 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000 (24 Ill. Reg. 11150)
- 10) Has JCAR issued a Statement of Objection to these amendments?
- 11) Differences Between Proposal and Final Version: The following changes have been made in the text of the proposed amendments:

Throughout Section 148.40, references to the Department of Mental Health and Developmental Disabilities, and its acronym, have been corrected to read the Department of Human Services and the appropriate acronym. References to other State Departments have been similarly corrected.

In subsection (a)(7)(C), both occurrences of "U.S.C.A." have been changed to "USCA" and the Illinois Revised Statute cite has been stricken.

In subsection (b)(4), "Title XIII" has been changed to "Title XVII".

In subsection (f), "(see 89 Ill. Adm. Code 149)" has been added after "(DRG PPS)".

In subsection (f)(2), the Illinois Revised Statute cite has been stricken and "[20 ILCS 2215]" has been added after "Illinois Health Finance Reform Act".

No other substantive changes have been made in the text of the proposed amendments.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments to the Department's administrative rules pertaining to hospital services are necessary to update the rules regarding general clinic services. Because of outpatient reform measures that the Department has undertaken during the past two years, hospital-based general clinic services are now reimbursed on a fee-for-service basis or like other outpatient services under the rate methodology for Ambulatory Procedure Listing (APL) groupings, as described at Section 148.140. Therefore, text relating to general clinic services is being stricken from Section 148.40.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285	Excellence in Academic Medicine Payments

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148.290 Adjustments and Reductions to Total Payments
 148.295 Critical Hospital Adjustment Payment (CHAP)
 148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)
 148.297 Pediatric Outpatient Adjustment Payments
 148.298 Pediatric Inpatient Adjustment Payments
 148.300 Payment
 148.310 Review Procedure
 148.320 Alternatives
 148.330 Exemptions
 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
 148.350 Definitions (Repealed)
 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
 148.368 Volume Adjustment (Repealed)
 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
 148.390 Hearings
 148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

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at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amendment at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. _____, effective _____.

Section 148.40 Special Requirements

- a) Inpatient Psychiatric Services
 1) Payment for inpatient hospital psychiatric services shall be made only to:

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- A) A hospital that is a general hospital, as defined in Section 148.25(b), with a functional unit, as defined in Section 148.25(c)(1), that specializes in, and is enrolled with the Department to provide, psychiatric services; or
- B) A hospital, as defined in Section 148.25(b), that holds a valid license as, and is enrolled with the Department as, a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1).
- 2) Inpatient psychiatric services are those services provided to patients who are in need of short-term acute inpatient hospitalization for active treatment of an emotional or mental disorder.
- 3) Inpatient psychiatric services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.
- 4) Federal Medicaid regulations preclude payment for patients over 20 or under 65 years of age in any Institution for Mental Diseases (IMP). Therefore, psychiatric hospitals may not receive reimbursement for services provided to patients over the age of 20 and under the age of 65. In the case of a patient receiving psychiatric services immediately preceding his/her 21st birthday, reimbursement for psychiatric services shall be provided until the earliest of the following:
- The date the patient no longer requires the services; or
 - The date the patient reaches 22 years of age.
- 5) A psychiatric hospital must be accredited by the Joint Commission on the Accreditation of Health Care Organizations to provide services to program participants under 21 years of age or be Medicare certified to provide services to program participants 65 years of age and older. Distinct part psychiatric units and psychiatric hospitals located in the State of Illinois, or within a 100 mile radius of the State of Illinois, must execute an interagency agreement with a Department of Human Services (DHS)MHBB-operated mental health center (State-operated facility ~~facilities~~) for coordination of services including, but not limited to, crisis screening and discharge planning to ensure linkage to aftercare services with private practitioners or community mental health services, as described in subsection (a)(6) of this Section below.
- 6) Coordination of Care - Purpose. In accordance with subsection (a)(5) of this Section above, distinct part psychiatric units and psychiatric hospitals located in the State of Illinois, or within a 100 mile radius of the State of Illinois, must execute a Coordination of Care Agreement in order to participate as a provider of inpatient psychiatric services. The Coordination of Care Agreement shall set forth an agreement between the DHSMHBB-operated mental health center (State-operated facility) and the hospital for the coordination of services, including but

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- not limited to crisis screening and discharge planning to ensure efficient use of inpatient care. The agreement shall also set forth the manner in which linkage to aftercare services with community mental health agencies or private practitioners shall be carried out.
- 7) Coordination of Care - General Provisions. The general provisions of the Coordination of Care Agreement described in subsection (a)(6) of this Section ~~above~~ are as follows:
- The hospital shall agree, on a continuing basis, to comply with applicable licensing standards as contained in State laws or regulations and shall maintain accreditation by JCAHO;
 - The provider shall comply with Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 and regulations promulgated thereunder which prohibit discrimination on the grounds of sex, race, color, national origin or handicap;
 - The provider shall comply with the following applicable federal, State and local statutes pertaining to equal employment opportunity, affirmative action, and other related requirements: 42 USC 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 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2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 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for whom less restrictive alternatives are documented not to be appropriate at the time based on a clinical determination by the community mental health agency, a private practitioner (if applicable), or the hospital; and

F) Notify the State-operated facility prior to planned transfer of an individual and transfer the individual at such time as to assure arrival of the person prior to 11 a.m. Monday through Friday. In unusual situations, transfers may be made at other times after prior discussion between the hospital and the State-operated facility. The individual will only be transported to the State-operated facility when, based on a clinical determination, he/she is medically stable as determined by the transferring physician. A copy of the transfer summary from the hospital must accompany the recipient at the time of admission to the State-operated facility.

9) Coordination of Care - Special Requirements of the State-Operated Facility. The State-operated facility shall:

- A) Admit individuals who have been screened as defined in the Coordination of Care Agreement and are appropriate for admission consistent with the provisions of the Mental Health and Developmental Disabilities Code.
- B) Evaluate individuals for whom the hospital has executed a Petition and Certificate for involuntary/judicial admission consistent with the Mental Health and Developmental Disabilities Code.
- C) Consider for admission voluntary individuals for whom less restrictive alternatives are documented not to be appropriate at the time, based on a clinical determination by the community mental health agency, private practitioner (if applicable), the hospital, or the State-operated facility.

10) A participating hospital not enrolled for inpatient psychiatric services may provide psychiatric care as a general inpatient service only on an emergency basis for a maximum period of 72 hours or in cases in which the psychiatric services are secondary to the services for which the period of hospitalization is approved.

b) Inpatient Rehabilitation Services

- 1) Payment for inpatient rehabilitation services shall be made only to a general hospital, as defined in Section 148.25(b), with a functional unit of the hospital, as defined in Section 148.25(c)(2), which specializes in, and is enrolled with the Department to provide, physical rehabilitation service or a hospital, as defined in 89 Ill. Adm. Code 149.50(c)(2), which holds a valid license as, and is enrolled with the Department as, a physical rehabilitation hospital.
- 2) The primary reason for hospitalization is to provide a structured

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program of comprehensive rehabilitation services, furnished by specialists, to the patient with a major handicap for the purpose of habituating or restoring the person to a realistic maximum level of functioning.

3) Inpatient rehabilitation services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.

4) For payment to be made, a rehabilitation facility, which includes a distinct part unit as described in Section 148.25(c)(2), must be certified by the Health Care Financing Administration for participation under the Medicare program (Title XVIII §§1861 and 1862) and must be licensed and/or certified by the Illinois Department of Public Health (DPH) to provide comprehensive physical rehabilitation services. Out-of-state hospitals that specialize in physical rehabilitation services must be licensed or certified to provide comprehensive physical rehabilitation services by the authorized licensing agency in the state in which the hospital is located.

5) A rehabilitation facility must meet the following criteria:

- A) Have a full-time (at least 35 hours per week) director of rehabilitation; a participating general hospital with a functional rehabilitation unit must have a part-time (at least 20 hours per week) director of rehabilitation;
 - B) Have an organized medical staff;
 - C) Have available consultants qualified to perform services in appropriate specialties;
 - D) Have adequate space and equipment to provide comprehensive diagnostic and treatment services;
 - E) Maintain records of diagnosis, treatment progress (notations must be made at regular intervals) and functional results; and
 - F) Submit reports as required by the Department of Public Aid (DPA).
- 6) A rehabilitation facility must provide, or have a contractual arrangement with an appropriate entity or agency to provide, the following minimal services:
- A) Full-time nursing services under the supervision of a registered nurse formally trained in rehabilitation nursing;
 - B) Full-time physical therapy and occupational therapy services; and
 - C) Social casework services as an integral part of the rehabilitation program.
- 7) A rehabilitation facility must have available the following minimal services:
- A) Psychological evaluation services;
 - B) Prosthetic and orthotic services;
 - C) Vocational counseling;
 - D) Speech therapy;

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- E) Clinical laboratory and x-ray services; and
 F) Pharmacy services.
- 8) The director of rehabilitation must meet the following criteria:
 A) Provide services to the hospital and its patients as specified in subsection (b)(5) of this Section;
 B) Be a doctor of medicine or osteopathy;
 C) Be licensed under State law to practice medicine or surgery; and
 D) Must have, after completing a one-year hospital internship, at least two years of training or experience in the medical management of inpatients requiring rehabilitation services.
- 9) Personnel of the rehabilitation facility must meet the following minimum standards:
 A) Physicians shall have unlimited licenses to practice medicine and surgery in the state in which they practice. Consultants shall be Board Qualified or Board Certified in their specialty.
 B) Physical therapists shall be licensed by the Illinois Department of Professional Regulation.
 C) Occupational therapists shall be licensed by the Illinois Department of Professional Regulation.
 D) Registered nurses and licensed practical nurses shall be currently licensed by the Illinois Department of Professional Regulation or comparable licensing agency in the State in which the facility is located.
 E) Social workers shall have completed two years of graduate training leading to a Master's Degree in social work from an accredited graduate school of social work.
 F) Psychologists shall have a Master's Degree in clinical psychology.
 G) Vocational counselors shall have a Master's Degree in Rehabilitation Counseling, Psychology or Guidance from a school accredited by the North Central Association or its equivalent.
 H) An orthotist or prosthetist, certified by the American Board of Certification in Orthotics and Prosthetics, shall fabricate or supervise the fabrication of all limbs and braces.
- c) End-Stage Renal Disease Treatment (ESRDT) Services. The Department provides payment to hospitals, as defined in Section 148.25(b), for ESRDT services only when the hospital is Medicare certified for ESRDT and services are provided as follows:
 1) Inpatient hospital care is provided for the evaluation and treatment of acute renal disease;
 2) Outpatient chronic renal dialysis treatments are provided in the outpatient renal dialysis department of the hospital, a satellite unit of the hospital that is professionally associated with the center for medical direction and supervision, or a free-standing

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- chronic dialysis center certified by Medicare, pursuant to 42 CFR 405, Subpart U (1994), and the recipient is approved by DPH the Illinois-Department-of-Public-Health-(IDPH) or the Department of Health and Human Services (DHHS) as eligible for ESRDT services;
 or
 3) Home dialysis treatments are provided through the outpatient renal dialysis department of the hospital, a satellite unit of the hospital that is professionally associated with the center for medical direction and supervision, in a patient's home, or through a free-standing chronic dialysis center certified by Medicare, pursuant to 42 CFR 405, Subpart U (1994), and the recipient is approved by DPH the-Illinois-Department-of-Public-Health-(IDPH) or DHHS the-Department-of-Health-and-Human-Services-(DHHS) as eligible for ESRDT services.
- d) Hospital-Based Organized Clinic Services. Hospital-based clinics, as described in Section 148.25(b)(4), must meet the requirements of 89 Ill. Adm. Code 140.461(a). The following two four categories of hospital-based organized clinic services are recognized in the Medical Assistance Program:
 i) General-Clinic-Services--General-clinic-services-are-diagnostic, therapeutic--and-palliative-services-provided-under-the-direction of-a-physician-who-provides-for-the-health-care-needs-of--persons who-select-to-use-this-type-of-service-rather-than-another-source of-primary-care--in-order--to-participate-as-a-provider--of-general-clinic-services--a-hospital--must-meet-the-following requisites:
 A) The-hospital-must--be--enrolled--for--participation--in--the Medical--Assistance--Program--to--provide--general-inpatient (category--of--service--80)--and--general-outpatient--category--of--service--24)--hospital-services.
 B) Personnel
 i) The-clinic-must-be-organized-as--a--distinct--hospital department--with--a--qualified--trained--executive-in charge--of--all--activities--and--responsible--to--the administration--of--the-hospital;
 ii) An-advisory-medical-council-must--function--to--assist the--executive-officer-in-formulating-policies--for-the management-and-care-of-clinic-patients;
 iii) The-qualifications-of-the-medical-staff-of-the-clinic must--meet--the--same--requirements--that-apply--to-the hospital-staff;
 iv) Nursing-services-must-be-provided-by--licensed--nurses under--the--supervision--of--a-registered-professional nurse--(R-N)--and
 v) A-dietician-must-be-available-to-instruct-the-patients regarding-special-diets-and-to-plan-with-the-patients in-the-buying-and-preparation-of-food.
 E) Program

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- i) The program of the clinic must ensure the provision of comprehensive, high quality, personalized, and continuous health care services to its patients. This means that, at a minimum, the clinic must provide or contract for the services of a sufficient number of primary and specialty care physicians to meet the health needs of patients of the clinic and must have provisions made for the back-up care of patients when the clinic is not open.
- ii) The laboratory, x-ray, and special therapy services must be available for clinic patients as needed.
- iii) The pharmacy must be an integral part of the clinic organization and
- iv) The medical social services in the clinic must be integrated with those in the hospital.
- B) Physical Setting and Equipment: The size, location, ventilation, and lighting of accommodations for interviewing, examining, and treating patients and appropriate equipment must be adequate to serve the number and needs of patients accepted by the clinic.
- B) Records
- i) Clinic records must accurately reflect the patient's condition and contain all significant facts bearing on the case, i.e., history, symptoms, and complaints. Physical examination findings, laboratory and x-ray procedures, and medications ordered and their results, diagnosis, treatment given or recommended, and the patient's response to treatment, and
- ii) Clinic records must contain the dates of service and the name of the medical practitioner seeing the patient at the time of each clinic visit.

1)2) Psychiatric Clinic Services

- A) Psychiatric Clinic Services (Type A). Type A psychiatric clinic services are clinic service packages consisting of diagnostic evaluation; individual, group and family therapy; medical control; optional Electroconvulsive Therapy (ECT); and counseling, provided in the hospital clinic setting for individuals through the age of 21.
- B) Psychiatric Clinic Services (Type B). Type B psychiatric clinic services are active treatment programs in which the individual patient is participating in no less than social, recreational, and task-oriented activities at least four hours per day at a minimum of three half days of active treatment per week. The duration of an individual patient's participation in this treatment program is limited to six months in any twelve month period.
- C) Coverage. Psychiatric clinic services are covered for all Medicaid-eligible individuals. The services are not covered

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for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.

- D) Approval. The Illinois Department of Human Services Mental Health and Developmental Disabilities (BMHDB) and the Illinois Department of Public Aid (DPA) are responsible for approval and enrollment of community hospitals providing psychiatric clinic services. In order to participate as a provider of psychiatric clinic services, a hospital must be enrolled for the provision of inpatient psychiatric services and execute a Psychiatric Clinic Services Type A and B Enrollment Assurance with DHS BMHDB and DPA the Department, which assures that the hospital is enrolled for the provision of inpatient psychiatric services and meets the following requisites:

- i) The hospital must be accredited by, and be in good standing with, the Joint Commission on Accreditation of Health Care Organizations (JCAHO);
- ii) The hospital must have executed a Coordination of Care Agreement between the hospital and the designated DHS Illinois Department of Mental Health and Developmental Disabilities. State-operated facility serving the mentally ill in the appropriate geographic area;
- iii) The clinical staff of the psychiatric clinic must collaborate with the mental health service network to provide discharge, linkage and aftercare planning for recipients of outpatient services;
- iv) The hospital must agree to participate in Local Area Networks in compliance with P.L. 99-660 and P.A. 86-844; and
- v) The hospital must be enrolled to participate in Medicaid program (Title XIX) and must meet all conditions and requirements set forth by DPA the Illinois Department of Public Aid.

- E) Duration of Approval. The approval described in subsection (d)(1)(2)(D) of this Section above shall be in effect for a period of two years from the date DPA BPA approves the psychiatric client's enrollment. The approval may be terminated by DPA BPA or DHS BMHDB with cause upon 30 days written notice to the hospital. Accordingly, the hospital must submit a 30 day written notification to DPA BPA and DHS BMHDB when terminating delivery of psychiatric clinic services.

2)3) Physical Rehabilitation Clinic Services

- A) Physical rehabilitation clinic services include the same rehabilitative services provided to inpatients by hospitals enrolled to provide the services described in Section 148.40(b). Clinic services should be utilized when the

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patient's condition is such that it does not necessitate inpatient care and adequate care and treatment can be obtained on an outpatient basis through the hospital's specialized clinic.

B) Physical rehabilitation clinic services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.

e) Healthy Moms/Healthy Kids Managed Care Clinics. Healthy Moms/Healthy Kids managed care clinics, as described in 89 Ill. Adm. Code 140.461(f) and Section 148.25(b)(5), must meet the requirements of 89 Ill. Adm. Code 140.461(f).

f) Transition to the Diagnosis Related Grouping Prospective Payment System (DRG PPS) [see 89 Ill. Adm. Code 149]

1) Effective with admissions occurring on or after September 1, 1991, and before October 1, 1992, hospitals shall be reimbursed in accordance with the statutes and administrative rules governing the time period when the services were rendered.

2) Effective with admissions occurring on or after October 1, 1992, hospitals that, on August 31, 1991, had a contract in effect with the Department under the Illinois Health Finance Reform Act [20 ILCS 2215] ~~that~~ ~~Rev-Stat-1991-Chr-237-par-6501-1-et-seq-7~~ ~~390-1505-157~~ and that elected, effective September 1, 1991, to be reimbursed at rates stated in such contracts, may elect to continue to be reimbursed at rates stated in such contracts for general and specialty care in accordance with subsection (g) of this Section.

3) In the case of a hospital that was determined by the Department to be a rural hospital at the beginning of the rate period described in Section 148.25(g)(2)(A), those hospitals that shall be treated as sole community hospitals, as described in 89 Ill. Adm. Code 149.125(b) shall elect one of the following payment methodologies to be used by the Department in reimbursing that hospital for inpatient services during the rate period described in Section 148.25(g)(2)(A):

A) the DRG PPS, as described in 89 Ill. Adm. Code 149, or
B) the rate calculated under Section 148.260.

4) In the case of a hospital that was not determined by the Department to be a rural hospital at the beginning of the rate period described in Section 148.25(g)(2)(A), but was subsequently reclassified by the Department as a rural hospital, as described in Section 148.25(g)(3), on July 14, 1993, those hospitals that shall be treated as sole community hospitals, as described in 89 Ill. Adm. Code 149.125(b), shall elect one of the following payment methodologies to be used by the Department in reimbursing that hospital for inpatient admissions, or, if applicable, for inpatient services provided on October 1, 1993, and for the duration of the rate period described in Section 148.25(g)(2)(A):

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A) the DRG PPS, as described in 89 Ill. Adm. Code 149, subject to the provisions of 89 Ill. Adm. Code 149.100(c)(1), or
B) the rate calculated under Section 148.260 that would have been in effect for the rate period described in Section 148.25(g)(2)(A) if the hospital had been designated as a sole community hospital on October 1, 1992.

5) For the rate periods described in Section 148.25(g)(2)(B), hospitals, as described in 89 Ill. Adm. Code 149.125(b), shall elect one of the following payment methodologies to be used by the Department in reimbursing that hospital for inpatient admissions, or, if applicable, for inpatient services provided during such rate periods described in Section 148.25(g)(2)(B):
A) the DRG PPS, as described in 89 Ill. Adm. Code 149, subject to the provisions of 89 Ill. Adm. Code 149.100(c)(1), or
B) the rate calculated under Section 148.260.

g) Annual Irrevocable Election

1) Hospitals described in subsections (f)(2) and (f)(3) of this Section above may elect to be reimbursed under the special arrangements described in subsections (f)(2) and (f)(3) above at the beginning of each rate period.

2) Hospitals described in subsection (f)(4) of this Section above may elect to be reimbursed under the special arrangements described in subsection (f)(4) above effective with admissions, or, if applicable, with inpatient services provided, on October 1, 1993, and for the duration of the rate period described in Section 148.25(g)(2)(A).

3) Hospitals described in subsection (f)(5) of this Section above may elect to be reimbursed under the special arrangements described in subsection (f)(5) above at the beginning of each rate period described in Section 148.25(g)(2)(B).

4) Once a sole community hospital elects to be reimbursed under the DRG PPS, it may not later in that rate period elect to be classified as exempt. Once a sole community hospital elects to be reimbursed as exempt, it may not later in that rate period elect to be reimbursed under the DRG PPS.

5) Hospitals that, on August 31, 1991, had a contract with the Department under the Illinois Health Finance Reform Act may elect to continue to be reimbursed at rates stated in such contracts for general and specialty care. Once such election has been made, the hospital may not later in that rate period year elect to be reimbursed under any other methodology.

6) Hospitals that, on August 31, 1991, had a contract with the Department under the Illinois Health Finance Reform Act and have elected to be reimbursed under the DRG PPS may not later elect to be reimbursed at rates stated in such contracts.

h) Notification of Reimbursement Methodology

1) Hospitals shall receive notification from the Department with respect to the reimbursement methodologies that shall be in

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effect for admissions occurring during the rate period.

2) Hospitals described in subsections (f)(2), (f)(3), (f)(4), and (f)(5) of this Section above shall receive notification of their reimbursement options accompanied by a Choice of Reimbursement form. Each hospital described in subsections (f)(2), (f)(3), (f)(4), and (f)(5) above shall have 30 days after from the date of such notification to file, with the Department, the reimbursement method of choice for the rate period. In the event the Department has not received the hospital's Choice of Reimbursement form within 30 days after from the date of notification, as described in this Section above, the hospital will automatically be reimbursed for the rate period under the reimbursement methodology that would have been in effect without benefit of the election described in subsection (g) of this Section above.

- i) Zero Balance Bills. The Department requires a hospital to submit a bill for any inpatient service provided to an Illinois Medicaid eligible person, including newborns, regardless of payor. A "zero balance bill" is one on which the total "prior payments" are equal to or exceed the Department's liability on the claim. The Department requires that zero balance bills be submitted subsequent to discharge in the same manner as are other bills so that the information can be available for the maintenance of accurate patient profiles and diagnosis-related grouping (DRG) data, and information needed for calculation of disproportionate share and other rates. The provisions of this subsection apply to all hospitals regardless of the reimbursement methodology under which they are reimbursed.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers: Adopted Action:
120.90 Repeal
120.91 Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
August 25, 2000 (24 Ill. Reg. 12843)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version: No changes have been made to the proposed rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The rules pertaining to the Migrant Medical Program are being repealed because the program has been eliminated. In the past, this special program was necessary to allow access to medical coverage for migrant workers because they were not considered to be Illinois residents. However, the Public Aid Code has been amended at 305 ILCS 5/5-3 to specify that any person living in Illinois, including persons who are migrant workers, may qualify for medical assistance. "Migrant worker" is described as a person residing temporarily and employed in Illinois who moves seasonally from place to place for the purpose of employment in agricultural activities. Because of these provisions, migrant workers may qualify for coverage under the

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Department's Medical Assistance Program. Dependents of such workers may also be eligible for medical benefits if they are living with the migrant workers during the period of residence and employment in Illinois. Since migrant workers and their dependents have the same access to medical assistance as other eligible Illinois residents, the Migrant Medical Program contained in Part 120, Subpart F, is being repealed because it is no longer needed.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility For Medical Assistance

120.11 MANG(P) Eligibility

120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women

120.20 MANG(AABD) Income Standard

120.30 MANG(C) Income Standard

120.31 MANG(P) Income Standard

120.40 Exceptions To Use Of MANG Income Standard

120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60

120.61 Cases Other Than Long Term Care, Pregnant Women and Certain Children Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities

120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643

120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings

120.64 MANG(P) Cases

120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

Section

120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program

120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)

120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)

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120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section

120.90 Migrant Medical Program (Repealed)
120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

120.200 Elimination of Aid to The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)

120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)
120.225 Social Security Numbers (Repealed)
120.230 Unearned Income (Repealed)
120.235 Exempt Unearned Income (Repealed)
120.236 Education Benefits (Repealed)
120.240 Unearned Income In-Kind (Repealed)
120.245 Earmarked Income (Repealed)
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
120.255 Protected Income (Repealed)
120.260 Earned Income (Repealed)
120.261 Budgeting Earned Income (Repealed)
120.262 Exempt Earned Income (Repealed)
120.270 Recognized Employment Expenses (Repealed)
120.271 Income From Work/Study/Training Program (Repealed)
120.272 Earned Income From Self-Employment (Repealed)
120.273 Earned Income From Roomer and Boarder (Repealed)
120.275 Earned Income In-Kind (Repealed)
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
120.280 Assets (Repealed)
120.281 Exempt Assets (Repealed)

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120.282 Asset Disregards (Repealed)
120.283 Deferral of Consideration of Assets (Repealed)
120.284 Spend-down of Assets (AMI) (Repealed)
120.285 Property Transfers (Repealed)
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
120.295 Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section

120.308 Client Cooperation
120.309 Caretaker Relative
120.310 Citizenship
120.311 Residence
120.312 Age
120.313 Blind
120.314 Disabled
120.315 Relationship
120.316 Living Arrangements
120.317 Supplemental Payments
120.318 Institutional Status
120.319 Assignment of Rights to Medical Support and Collection of Payment
120.320 Cooperation in Establishing Paternity and Obtaining Medical Support
120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324 Health Insurance Premium Payment (HIPP) Program
120.325 Health Insurance Premium Payment (HIPP) Pilot Program
120.326 Foster Care Program
120.327 Social Security Numbers
120.330 Unearned Income
120.332 Budgeting Unearned Income
120.335 Exempt Unearned Income
120.336 Education Benefits
120.338 Incentive Allowance
120.340 Unearned Income In-Kind
120.342 Court Ordered Child Support Payments of Parent/Step-Parent
120.345 Earmarked Income
120.346 Medicaid Qualifying Trusts
120.347 Treatment of Trusts
120.350 Lump Sum Payments and Income Tax Refunds
120.355 Protected Income
120.360 Earned Income
120.361 Budgeting Earned Income
120.362 Exempt Earned Income

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38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903,

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120.363 Earned Income Disregard - MANG(C)
120.364 Earned Income Exemption
120.366 Exclusion From Earned Income Exemption
120.370 Recognized Employment Expenses
120.371 Income From Work/Study/Training Programs
120.372 Earned Income From Self-Employment
120.373 Earned Income From Roomer and Boarder
120.375 Earned Income In Kind
120.376 Payments from the Illinois Department of Children and Family Services
120.379 Provisions for the Prevention of Spousal Impoverishment
120.380 Assets
120.381 Exempt Assets
120.382 Asset Disregard
120.383 Deferral of Consideration of Assets
120.384 Spend-down of Assets (RABD MANG)
120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG and Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

TABLE A Value of a Life Estate and Remainder Interest
TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg.

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effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg.

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10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective REG. 17000.

SUBPART F: MIGRANT MEDICAL PROGRAM

Section 120.90 Migrant Medical Program (Repealed)

- a) The Department administers the Migrant Medical Program (MMP), which provides medical assistance to eligible migrants and their dependents.
- b) To be eligible for MMP benefits, a migrant must be employed in Illinois and the migrant and each dependent for whom assistance is requested, must:
- i) be residing together in Illinois as a family group; and

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:

140.11	Amendment
140.12	Amendment
140.21	Amendment
140.502	Amendment
140.503	Amendment
140.505	New Section
140.506	Amendment
140.700	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 30, 2000 (24 Ill. Reg. 8800)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version:

SECTION 140.11

Subsection (c) has been revised as follows:

"(c) Upon notification from the Illinois Health Facilities Planning Board that an exception for a change of ownership has been granted, the Department shall notify the prospective buyer of its obligation under Section 140.12(k) to assume liability for repayment to the Department for overpayments made to the current owner or operator. Such notification shall inform the prospective buyer of all outstanding known liabilities due to the Department by the facility and of any known pending Department actions against the facility that may result in further liability. For long-term care providers, when there is a change of ownership, for long-term care providers, when there is a

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change of ownership of a facility or a facility is leased to a new operator, written notification shall be made to the Department at least 30 days in advance of the change. The Department shall notify the purchaser, within ten working days of receipt of the purchaser's notification, of its obligation under Section 140.12(k) to assume liability for repayment to the Department for overpayments made to the previous owner or operator. Such notification shall inform the purchaser of all outstanding known liabilities due to the Department by the facility and of any known pending Department actions against the facility that may result in further liability. For long term care providers, when there is a change of ownership of a facility or a facility is leased to a new operator, the provider agreement shall be automatically assigned to the new owner or lessee. Such assigned agreement shall be subject to all conditions under which it was originally issued, including, but not limited to, any existing plans of correction, all requirements of participation as set forth in Section 140.12 or additional requirements imposed by the Department."

SECTION 140.12

In the new language in subsection (k), "or lessee" has been added after "previous owner" and "known outstanding known liabilities" has been changed to "known outstanding liabilities".

SECTION 140.505

In subsection (a), the CFR cite has been changed to "(42 CFR 483, Subpart I)".

New language has been added at the end of subsection (a) to read, "The Department shall only impose the sanction of denial of payment for new admissions if the facility has been issued a notice of termination/decertification pursuant to 89 Ill. Adm. Code 104.208(d)."

In subsection (b), a comma has been added after "If".

In subsection (d), "will" has been added after the first occurrence of "new admissions" and "15 days from" has been changed to "15 days after".

The Section source note has been corrected.

SECTION 140.700

The subsection label, "f)", has been underlined and at the end of subsection (f), "such day" has been changed to "that day".

No other changes have been made in the text of the proposed amendments.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.21	Amendment	October 6, 2000 (24 Volume Ill. Reg. 14593)
140.22	Repeal	October 6, 2000 (24 Volume Ill. Reg. 14593)
140.494	New Section	August 8, 2000 (24 Volume Ill. Reg. 11539)

- 15) Summary and Purpose of Amendments: The Department is making a number of changes to the administrative rules in Part 140, Medical Payment. The amendments pertain to long term care (LTC) issues concerning changes of ownership, voluntary withdrawal of a facility from the Medical Assistance Program and an informal hearing process for ICFs/MR (Intermediate Care Facilities for the Mentally Retarded).

Sections 140.11 and 140.12 These amendments relate to changes of ownership and outstanding liabilities. Currently, a LTC facility must notify the Department of a change in ownership and the Department is obligated to respond to the purchaser within a certain time frame on outstanding liabilities due to the Department. However, in actual practice for the majority of ownership changes, the Department does not receive advance notification of the ownership change and the outstanding liability information is not sent. The new provisions allow a current or previous owner to request from the Department a list of all outstanding liabilities due from the facility and of any pending Department actions against a facility that may result in further liability. The Department will also automatically send a notice of outstanding liabilities when an ownership exemption (change) is granted by the Illinois Health Facilities Planning Board. With changes of ownership or lease to a new operator, the provider agreement shall be automatically reassigned and the new owner or lessee shall remain responsible for assuming outstanding liabilities.

Sections 140.21, 140.506 and 140.700 These amendments reflect Public Law 106-4 on voluntary withdrawal of a nursing facility (NF) from the Medical Assistance Program and resident discharge. P.L. 106-4 provides that a NF may not transfer or discharge any resident who resided in the facility as of the day before the date of voluntary withdrawal simply on the basis of such withdrawal.

Currently, the Department is responsible for continuing payment for Medicaid eligible residents who were residing in the NF as of the effective date of voluntary withdrawal when such a facility continues to provide services. Private pay residents becoming Medicaid eligible after

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the withdrawal date are transferred to a facility enrolled in the Medical Assistance Program and Department coverage is begun. The new requirements direct the Department to provide payment to a facility after voluntary withdrawal for private pay residents residing in the facility on the day prior to the withdrawal, who became Medicaid eligible after the withdrawal date. Withdrawn facilities will be required to maintain provider agreements for all Medicaid residents and also for private pay residents who resided in the facility as of the day before withdrawal and who later become Medicaid eligible. P.L. 106-4 does not apply to ICFs/MR.

Sections 140.502 and 140.503 Several nonsubstantive amendments are being made to the rules on cessation of payment to update terminology and to specify that the Department has sole discretion to continue LTC facility payment when there are issues of health, safety and welfare of the resident that justify continued payment.

Section 140.505 This new rule reflects federal regulations at 42 CFR 442.118 requiring that ICFs/MR have an opportunity for an informal hearing prior to denial of payment by the Department for new admissions. Denial of payment for new admissions can be imposed if a facility has failed to correct cited deficiencies and comply with conditions of participation for ICFs/MR within 60 days after the initial survey by the Department of Public Health. However, after the 60-day period, the Department must issue a written notice under these proposed changes stating the intent to impose the payment sanction and notifying the facility of its entitlement to an informal hearing prior to imposition of the sanction. When a determination is made on the basis of the informal hearing to deny payments for new admissions, the Department shall provide a 15-day notice of the intent to impose the payment sanction.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
 140.2 Medical Assistance Programs
 140.3 Covered Services Under Medical Assistance Programs
 140.4 are 18 years of age or older (Repealed)
 140.5 Covered Medical Services Under AFDC-MANG for non-pregnant persons who
 140.6 Medical Services Not Covered
 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen
 140.8 Who Do Not Qualify for AFDC and Children Under Age Eight
 140.9 Medical Assistance For a Pregnant Woman Who Would Not Be
 140.10 Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already
 140.11 Born Or Who Do Not Qualify As Mandatory Categorically Needy
 140.12 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
 140.12 Participation Requirements for Medical Providers
 140.13 Definitions
 140.14 Denial of Application to Participate in the Medical Assistance
 140.15 Program
 140.16 Recovery of Money
 140.17 Termination or Suspension of a Vendor's Eligibility to Participate in
 140.18 the Medical Assistance Program
 140.19 Suspension of a Vendor's Eligibility to Participate in the Medical
 140.20 Assistance Program
 140.21 Effect of Termination on Individuals Associated with Vendor
 140.22 Application to Participate or for Reinstatement Subsequent to
 140.23 Termination, Suspension or Barring
 140.24 Submittal of Claims
 140.25 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
 140.26 Magnetic Tape Billings
 140.27 Payment of Claims
 140.28 Payment Procedures
 140.29 Overpayment or Underpayment of Claims
 140.30 Payment to Factors Prohibited

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- 140.27 Assignment of Vendor Payments
 140.28 Record Requirements for Medical Providers
 140.30 Audits
 140.31 Emergency Services Audits
 140.32 Prohibition on Participation, and Special Permission for
 140.33 Participation
 140.34 Publication of List of Terminated, Suspended or Barred Entities
 140.35 False Reporting and Other Fraudulent Activities
 140.40 Prior Approval for Medical Services or Items
 140.41 Prior Approval in Cases of Emergency
 140.42 Limitation on Prior Approval
 140.43 Post Approval for Items or Services When Prior Approval Cannot Be
 140.44 Obtained
 140.55 Recipient Eligibility Verification (REV) System
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
 140.72 Voucher Advance Payment and Expedited Payments
 140.73 Drug Manual (Recodified)
 140.74 Drug Manual Updates (Recodified)
- SUBPART C: PROVIDER ASSESSMENTS
- 140.80 Hospital Provider Fund
 140.82 Developmentally Disabled Care Provider Fund
 140.84 Long Term Care Provider Fund
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust
 140.95 Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
 140.96 Hospital Services Trust Fund
 140.97 General Requirements (Recodified)
 140.98 Special Requirements (Recodified)
 140.99 Covered Hospital Services (Recodified)
 140.100 Hospital Services Not Covered (Recodified)
 140.101 Limitation On Hospital Services (Recodified)
 140.102 Transplants (Recodified)
 140.103 Heart Transplants (Recodified)
 140.104 Liver Transplants (Recodified)
 140.110 Bone Marrow Transplants (Recodified)
 140.111 Disproportionate Share Hospital Adjustments (Recodified)
 140.116 Payment for Inpatient Services for GA (Recodified)
 140.117 Hospital Outpatient and Clinic Services (Recodified)
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
 140.203 Limits on Length of Stay by Diagnosis (Recodified)
 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in
 140.350 an Outpatient Setting (Recodified)
 140.360 Copayments (Recodified)
 140.361 Payment Methodology (Recodified)

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140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	Hearings (Recodified) *
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140.400	Payment to Practitioners, Nurses and Laboratories
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
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140.428	Chiropractic Services

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140.429	Limitations on Chiropractic Services (Repealed)
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140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Clinic Services
140.453	Definitions
140.454	Types of Mental Health Clinic Services
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140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
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140.462	Covered Services in Clinics
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140.477	Limitations on Equipment, Supplies and Prosthetic Devices
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SUBPART E: GROUP CARE

Section
140.500 Long Term Care Services
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140.503 Cessation of Payment for Improper Level of Care
140.504 Cessation of Payment Because of Termination of Facility
140.505 Informal Hearing Process for Denial of Payment for New ICF/MR Admissions ~~Continuation--of--Payment--Because--of--Threat--to--Life~~ ~~(Repealed)~~
140.506 Provider Voluntary Withdrawal
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140.510 Determination of Need for Group Care
140.511 Long Term Care Services Covered by Department Payment
140.512 Utilization Control
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140.514 Certifications and Recertifications of Care
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140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527 Quality Incentive Survey (Repealed)
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140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
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140.579 Specialized Living Centers
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 140.647 Description of Developmental Training (DT) Services
 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
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 140.652 Terms of Assurances and Contracts
 140.680 Effective Date of Payment Rate
 140.700 Discharge of Long Term Care Residents
 140.830 Appeals of Rate Determinations
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SUBPART F: MEDICAID PARTNERSHIP PROGRAM

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 140.850 General Description (Repealed)
 140.855 Definition of Terms (Repealed)
 140.860 Covered Services (Repealed)
 140.865 Sponsor Qualifications (Repealed)
 140.870 Sponsor Responsibilities (Repealed)
 140.875 Department Responsibilities (Repealed)
 140.880 Provider Qualifications (Repealed)
 140.885 Provider Responsibilities (Repealed)
 140.890 Payment Methodology (Repealed)
 140.895 Contract Monitoring (Repealed)
 140.896 Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)
 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
 140.901 Functional Areas of Needs (Recodified)
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140.903 Definitions (Recodified)
 140.904 Times and Staff Levels (Repealed)
 140.905 Statewide Rates (Repealed)
 140.906 Reconsiderations (Recodified)
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 140.908 Times and Staff Levels (Recodified)
 140.909 Statewide Rates (Recodified)
 140.910 Referrals (Recodified)
 140.911 Basic Rehabilitation Aide Training Program (Recodified)
 140.912 Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section
 140.920 General Description
 140.922 Covered Services
 140.924 Maternal and Child Health Provider Participation Requirements
 140.926 Client Eligibility (Repealed)
 140.928 Client Enrollment and Program Components (Repealed)
 140.930 Reimbursement
 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
 140.942 Definition of Terms (Recodified)
 140.944 Notification of Negotiations (Recodified)
 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
 140.948 Negotiation Procedures (Recodified)
 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
 140.952 Closing an ICARE Area (Recodified)
 140.954 Administrative Review (Recodified)
 140.956 Payments to Contracting Hospitals (Recodified)
 140.958 Admitting and Clinical Privileges (Recodified)
 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
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 140.964 Contract Monitoring (Recodified)
 140.966 Transfer of Recipients (Recodified)
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 140.972 Hospital Services Procurement Advisory Board (Recodified)

TABLE A
 Medichex Recommended Screening Procedures (Repealed)

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to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.998 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September

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12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a

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maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended

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at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. ~~18336~~, effective

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.11 Enrollment Conditions for Medical Providers

- a) In order to enroll for participation, providers shall:
 - 1) Hold a valid, appropriate license where State law requires licensure of medical practitioners, agencies, institutions and other medical vendors;
 - 2) Be certified for participation in the Title XVIII Medicare program where federal ~~Federal~~ or State rules and regulations require such certification for Title XIX participation;
 - 3) Be certified for Title XIX when federal ~~Federal~~ or State rules and regulations so require;
 - 4) Provide enrollment information to the Department in the prescribed format, and notify the Department, in writing, immediately whenever there is a change in any such information which the provider has previously submitted;
 - 5) Provide disclosure, as requested by the Department, of all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business, enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services to public aid recipients; and
 - 6) Have a written provider agreement on file with the Department.
- b) Approval of a corporate entity such as a hospital, pharmacy, laboratory, etc., as a participant in the Medical Assistance Program applies only to the entity's existing ownership, corporate structure and location; therefore, participation approval is not transferable.
- c) Upon notification from the Illinois Health Facilities Planning Board that an exception for a change of ownership has been granted, the Department shall notify the prospective buyer of its obligation under Section 140.12(k) to assume liability for repayment to the Department for overpayments made to the current owner or operator. Such notification shall inform the prospective buyer of all outstanding known liabilities due to the Department by the facility and of any known pending Department actions against the facility that may result in further liability. ~~For long-term-care providers, when--there--is--a~~

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~~change-of-ownership-of-a-facility-or-a-facility-is-leased-to-a-new operator-written-notification-shall-be-made-to-the-Department-at least-30-days-in-advance-of-the-change-The-Department-shall-notify the-purchaser-within-ten-working-days-of-receipt-of-the-purchaser's notification-of-its-obligation-under-Section-140.12(k)-to-assume liability-for-repayment-to-the-Department-for-overpayments-made-to-the previous-owner-or-operator--Such-notification-shall-inform-the purchaser-of-all-outstanding-known-liabilities-due-the-Department-by the-facility-and-of-any-known-pending-Department-actions-against-the facility-that-may-result-in-further-liability. For long term care providers, when there is a change of ownership of a facility or a facility is leased to a new operator, the provider agreement shall be automatically assigned to the new owner or lessee. Such assigned agreement shall be subject to all conditions under which it was originally issued, including, but not limited to, any existing plans of correction, all requirements of participation as set forth in Section 140.12 or additional requirements imposed by the Department.~~

(Source: Amended at 24 Ill. Reg. 18338, effective _____)

Section 140.12 Participation Requirements for Medical Providers

The provider shall agree to:

- a) Verify eligibility of recipients prior to providing each service;
- b) Allow recipients the choice of accepting or rejecting medical or surgical care or treatment;
- c) Provide supplies and services in full compliance with all applicable provisions of State and federal laws and regulations pertaining to nondiscrimination and equal employment opportunity including but not limited to:
 - 1) Full compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin;
 - 2) Full compliance with Section 504 of the Rehabilitation Act of 1973 and 45 CFR 84, which prohibit discrimination on the basis of handicap; and
 - 3) Without discrimination on the basis of religious belief, political affiliation, sex, age or disability;
- d) Comply with the requirements of applicable federal ~~Federal~~ and State laws and not engage in practices prohibited by such laws;
- e) Hold confidential, and use for authorized program purposes only, all Medical Assistance information regarding recipients;
- f) Furnish to the Department, in the form and manner requested by it, any information it requests regarding payments for providing goods or services, or in connection with the rendering of goods or services or supplies to recipients by the provider, his agent, employer or employee;

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- g) Make charges for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges and in the same quality and mode of delivery as are provided to the general public;
- h) Accept as payment in full the amounts established by the Department.
 - 1) If a provider accepts an individual eligible for medical assistance from the Department as a Medicaid recipient, such provider shall not bill, demand or otherwise seek reimbursement from that individual or from a financially responsible relative or representative of the individual for any service for which reimbursement would have been available from the Department if the provider had timely and properly billed the Department. For purposes of this subsection, "accepts" shall be deemed to include:
 - A) an affirmative representation to an individual that payment for services will be sought from the Department;
 - B) an individual presents the provider with his or her medical card and the provider does not indicate that other payment arrangements will be necessary; or
 - C) billing the Department for the covered medical service provided an eligible individual.
 - 2) If an eligible individual is entitled to medical assistance with respect to a service for which a third party is liable for payment, the provider furnishing the service may not seek to collect from the individual payment for that service if the total liability of the third party for that service is at least equal to the amount payable for that service by the Department.
- i) Accept assignment of Medicare benefits for public aid recipients sought from the Department; when payment for services to such persons is complete from the Department;
- j) Complete an MCH (Maternal and Child Health) Primary Care Provider Agreement in order to participate in the Maternal and Child Health Program (see Section 140.924(a)(1)(D)); and
- k) In the case of long term care providers, assume liability for repayment to the Department of any overpayment made to a facility regardless of whether the overpayment was incurred by a current owner or operator or by a previous owner or operator. Liability of current and previous providers to the Department shall be joint and several. Recoveries by the Department under this Section may be made pursuant to Sections 140.15 and 140.25. A current or previous owner or lessee may request from the Department a list of all known outstanding liabilities due the Department by the facility and of any known pending Department actions against a facility that may result in further liability. For purposes of this Section, "overpayment" shall include, but not be limited to:
 - 1) Amounts established by final administrative decisions pursuant to 89 Ill. Adm. Code 104;
 - 2) Overpayments resulting from advance C-13 payments made pursuant

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- to Section 140.71;
- 3) Liabilities resulting from nonpayment or delinquent payment of assessments pursuant to Sections 140.82, Section 140.84 and 140.94; and
- 4) Amounts identified during past, pending or future audits that pertain to audit periods prior to a change in ownership and are conducted pursuant to Sections 140.30 and 140.590. Liability of current owners or operators for amounts identified during such audits shall be as follows:

- A) For past audits (audits completed before changes in ownership), liability shall be the amount established by final administrative decision.
- B) For pending audits (audits initiated, but not completed prior to the change in ownership), liability shall be limited to the lesser of the amounts established by final administrative decision or two months of service revenue. Two months of service revenue is defined as the most recent two months of Medicaid patient days ~~as reported on the latest cost report filed by the setting owner or operator~~ multiplied by the total Medicaid rate in effect on the date the new owner or operator is enrolled in the program as provider by the Department. The Medicaid rate in effect on the date of enrollment shall be used even if that rate is subsequently changed.

- C) For future audits (audits initiated after the change in ownership but pertaining to an audit period prior to a change in ownership), liability shall be limited as described in subsection (k)(4)(B) of this Section above.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

- a) In order to be qualified to receive reimbursement for services provided to QMB eligible clients (see 89 Ill. Adm. Code 120.72), providers must be enrolled in the Medical Assistance Medicaid program. Providers must also accept assignment of Medicare benefits for QMB recipients, when payment for services to such persons is sought from the Department.
- b) For Medicaid covered services, the Department will reimburse qualified providers who render services to QMBs in accordance with Department standards for the service(s) provided. For non-Medicaid covered services, the Department will reimburse qualified providers who render services to QMBs at the full Medicare deductible and coinsurance rate.
- c) Licensed and Medicare certified nursing facilities that enroll for the sole purpose of receiving payment for services to QMB only residents

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of the facility, then disenroll, are not subject to the provisions found in Section 140.506 governing voluntary withdrawal from the Medical Assistance Program.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: GROUP CARE

Section 140.502 Cessation of Payment at Federal Direction

The Department may cease payments for the care of a resident Medicaid recipient in a long term group care facility, who is eligible under the Medical Assistance Program, effective 30 days following the final disqualification of that facility by the Federal government Federal-Government participation in the Medicare or Medicaid programs, unless the Department shall have determined pursuant to Section 140.504 140-505 that payment should be continued for that resident recipient.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 140.503 Cessation of Payment for Improper Level of Care

The Department may ~~shall~~ cease payments for the care of a resident recipient in a long term group care facility, who is eligible under the Medical Assistance Program, effective 30 days following the Department's decision that the facility does not provide a level of care commensurate with the level of care needed by that resident recipient, unless the Department shall have determined pursuant to Section 140-505 that payments should be continued for that resident recipient. The Department has sole discretion to continue payment when there are circumstances affecting the health, safety and welfare of the resident that justify continued payment. Such circumstances include, but are not limited to, alternate facility placement cannot be found or transfer of a resident, as certified by a physician, may endanger the resident's life.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR Admissions Continuation-of-Payment-Because-of-Threat-to-Life (Repeated)

- a) The Department may deny payment for new admissions to an Intermediate Care Facility for the Mentally Retarded (ICF/MR) that is found to be out of compliance with the applicable conditions of participation (42 CFR 483, Subpart I) as the result of a survey and follow-up survey conducted by the Department of Public Health (DPH). The sanction of denial of payment for new admissions shall be imposed if the facility

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has failed to correct cited deficiencies and comply with conditions of participation for ICFs/MR within 60 days after the exit date of the DPH initial survey. The Department shall only impose the sanction of denial of payment for new admissions if the facility has been issued a notice of termination/decertification pursuant to 89 Ill. Adm. Code 104.208(d).

- b) If, at the end of the 60 days referenced in subsection (a) of this Section, the facility has not achieved compliance, the Department shall issue a written notice to the facility setting forth:
- 1) A statement that the Department intends to impose the sanction of denial of payment for new admissions; and
 - 2) A statement that the facility is entitled to an informal hearing prior to imposition of the sanction.

c) Informal hearing

- 1) The sole issue of an informal hearing under this Section is whether the facility is out of compliance with the conditions of participation for an ICF/MR.
- 2) The informal hearing shall consist of the facility presenting written evidence to the Department for its review, refuting the determination that the facility is out of compliance with the conditions of participation for an ICF/MR. Such written evidence must be received by the Department within 30 days after the date of the Department's notice to the facility under subsection (b) of this Section. The Department shall review the written evidence and provide the facility with a written decision of its determination, setting forth the reasons for its determination.
- 3) If a facility fails to timely submit the written evidence specified above, the Department shall make a determination that payments for new admissions be denied.
- d) If the Department determines, as a result of the informal hearing, that payments for new admissions will be denied, the Department shall issue a written notice to the facility informing it that the denial of payment for new admissions will be imposed on a specified date that shall not be fewer than 15 days after the date of the notice.
- e) The denial of payments for new admissions shall remain in effect until the Department is notified by DPH that the facility has come into compliance with the conditions of participation.

(Source: Old Section repealed at 19 Ill. Reg. 15692, effective November 6, 1995; new Section added at 24 Ill. Reg. _____, effective _____)

Section 140.506 Provider Voluntary Withdrawal

- a) A long term care facility may voluntarily withdraw from participation in the Medical Assistance Program by notifying the Department in writing at least 60 days prior to the effective date of the withdrawal. Recipients--for--whom--the--Department--makes--payment--under

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the Medical Assistance Program to long term care facilities are protected by the Nursing Home Care Reform Act of 1979 (311 Rev. Stat. 1997, ch. 111, § 2). Part of the Act through 415-113 and 415-141 through 415-142. No recipient may be required by the facility under such Act to leave the facility for reasons other than those enumerated in that Act.

- b) If a long term care facility informs the Department in writing that it intends to withdraw from the Medical Assistance Program Department's medical program, the Department shall not pay for the care of new admissions to the facility on or after the effective date of voluntary withdrawal.

i) New admissions--to--the--facility--after--the--effective--date--of--voluntary--withdrawal

- 2) Persons already residing in the facility whose eligibility for medical assistance becomes effective after the effective date of the facility's voluntary withdrawal.

- c) The Department shall continue to pay for the care of individuals recipients who are were residing in a facility which voluntarily withdraws from participation in the Medical Assistance Program Medicaid program provided that:

- 1) Payment is not terminated by operation of Sections 140.502, 140.503 or 140.504.

- 2) The facility continues to receive certification surveys and enters into provider agreements for persons already residing in the facility as approved recipients of medical assistance.

- 3) The individual has continuously resided in the facility since the day before the effective date of the facility's voluntary withdrawal with the Department. The recipient's effective date of eligibility for medical assistance falls on or before the effective date of the facility's voluntary withdrawal.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 140.700 Discharge of Long Term Care Residents

- a) A nursing facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient or an applicant for the Medical Assistance Program. A recipient or applicant shall be considered a resident in the nursing facility during any hospital stay totaling ten to 30 days or less following a hospital admission regardless of whether or not the nursing facility qualifies for payment for bed reserve per the criteria stated in Section 09-111-Adm-Code 140.523.

- b) If a nursing facility should refuse to accept a resident back in the facility after a stay in the hospital of less than ten days, the result may be that the resident will thereafter incur hospital bills of a greater amount than the nursing facility care would have cost.

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If the Department were to become liable to pay such hospital bills as a result of the nursing facility's refusal to take the recipient back into the facility, the Department shall recoup its costs for the unnecessary hospitalization from the nursing facility. The provider will be required to pay the Department the portion of the hospital bill that is in excess of the amount that would otherwise have been paid for care in the nursing facility from the date on which the nursing facility refused to accept the resident's return. The Department will notify the provider of its intent to recoup and opportunity for a hearing shall be given pursuant to 89 Ill. Adm. Code 104.7 Supart C.

c) A nursing facility must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed reserve period specified in Section 140.523, is readmitted to the nursing facility immediately upon the first availability of a bed in a semi-private, same sex room if the resident requires the services provided by the nursing facility and is eligible for Medicaid certified facility services.

d) The nursing facility must permit each resident to remain in the nursing facility and not transfer or discharge the resident except in specific instances as stated at ~~in--the~~ 77 Ill. Adm. Code 300.3300(c)(1)(A) through (C).

e) For all Medicaid certified nursing facilities, notice of transfer or discharge must be made to any resident 30 days before the resident is transferred or discharged as mandated by 42 CFR 483.12 (a)(4)(B). In addition to requirements stated at ~~in--the~~ 77 Ill. Adm. Code 300.3300(e), the contents of the notice shall also include requirements under 42 CFR 483.12(a)(5).

f) Pursuant to Section 1919(c)(2)(F) of the Social Security Act and Section 140.506 of this Part, a nursing facility that voluntarily withdraws from participation in the Medical Assistance Program, but continues to provide nursing facility services, is prohibited from using the facility's voluntary withdrawal from participation as an acceptable basis for the transfer or discharge of residents of the facility who were residing in the facility on the day before the effective date of the withdrawal, including those residents who were not entitled to coverage under the Medical Assistance Program as of that day.

(Source: Amended at 24 Ill. Reg. 3330, effective

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- 1) Heading of the Part: Home Rule County Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 220
- 3) Section Numbers: 220.115 Adopted Action: Amendment
- 4) Statutory Authority: 55 ILCS 5
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 4, 2000, 24 Ill. Reg. 11576

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90-552). Also makes other clarifying changes.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel

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Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 (217) 782-6996

The full text of the adopted amendment begins on the next page:

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TITLE 86: REVENUE
 CHAPTER I: DEPARTMENT OF REVENUE

PART 220

HOME RULE COUNTY RETAILERS' OCCUPATION TAX

Section

220.101	Nature of the Home Rule County Retailer's Occupation Tax
220.105	Registration and Returns
220.110	Claims to Recover Erroneously Paid Tax
220.115	Jurisdictional Questions
220.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
220.125	Penalties, Interest and Procedures
220.130	Effective Date

AUTHORITY: Implementing the Home Rule County Retailers' Occupation Tax Law of the Counties Code [55 ILCS 5/5-1006] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505-95].

SOURCE: Adopted August 5, 1959; amended at 3 Ill. Reg. 44, p. 185, effective October 19, 1979; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 5783, effective April 9, 1991; amended at 24 Ill. Reg. 8105, effective May 26, 2000; amended at 24 Ill. Reg. 1814b, effective _____.

Section 220.115 Jurisdictional Questions

a) County Defined

When used in this Part, "county" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town that which has superseded a civil township.

b) Mere Solicitation of Orders Not Doing Business

1) For a seller to incur Home Rule County Retailers' Occupation Tax liability in a given county, the sale must be made in the course of the seller's engaging in the retail business within that such county. In other words, enough of the selling activity must occur within the home rule county to justify concluding that the seller is engaged in business within the home rule county with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the such orders were subject to acceptance outside the taxing jurisdiction and title passed outside the such jurisdiction, with the goods being shipped from outside the such jurisdiction to the purchaser in the such jurisdiction, did not constitute engaging in the business of selling within the such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule county as

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the taxing jurisdiction as much as to the State as the taxing jurisdiction.

c) Seller's Acceptance of Order

1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of that such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule county or by someone working out of that such place of business, the seller incurs Home Rule County Retailers' Occupation Tax liability in that home rule county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the such purchase order from the purchaser in the absence of clear proof to the contrary.

2) If a purchase order is accepted outside this State, but the tangible personal property that which is sold is in an inventory of the retailer located within a county at the time of its sale (or is subsequently produced in the county ~~Illinois~~), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the county ~~Illinois~~) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to that such sale.

d) Some

1) Delivery of the property within the county to the purchaser is not necessary for the seller to incur Home Rule County Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercounty commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within the such county with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Home Rule County Retailers' Occupation Tax liability. Furthermore,

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the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the Home Rule County Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to be the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.) ******

e) Place of Business Where Long Term or Blanket Contracts are Involved Under a long term blanket or master contract that which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to those such orders.

f) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when the such sales are made.

g) Sales From Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the such sales and deliveries happen to be made -- the vehicle carrying the such stock of goods for sale being regarded as a portable place of business.

h) Sales of Coal or Other Minerals

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

2) A mineral produced in Illinois, but shipped out of Illinois by

1**See-Standard-Oil-Company-vs--Department-of-Finance-et-al-7--383--Ill--1934-for-a-similar-problem-under-the-Illinois-Retailer's-Occupation-Tax-Act-

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the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the county ~~it~~^{itself} and transports it over its own line to an out-of-State destination.

3) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the municipality or county where the retailer is located.

(Source: Amended at 24 Ill. Reg. 11226, effective _____)

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- 1) Heading of the Part: Home Rule Municipal Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 270
- 3) Section Numbers: 270.115 Adopted Action:
Amendment
- 4) Statutory Authority: 65 ILCS 5
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11226
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90-552). Also makes other clarifying changes.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel

DEPARTMENT OF REVENUE

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Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 (217) 782-6996

The full text of the adopted amendments begins on the next page:

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TITLE 86: REVENUE
 CHAPTER I: DEPARTMENT OF REVENUE

PART 270
 HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

Section

270.101	Nature of the Home Rule Municipal Retailers' Occupation Tax
270.105	Registration and Returns
270.110	Claims to Recover Erroneously Paid Tax
270.115	Jurisdictional Questions
270.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
270.125	Penalties, Interest and Procedures
270.130	Effective Date

AUTHORITY: Implementing the Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15].

SOURCE: Adopted August 1, 1955; amended at 3 Ill. Reg. 44, p. 189, effective October 19, 1979; amended at 6 Ill. Reg. 2836, 2839 and 2841, effective March 3, 1982; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 3507, effective February 21, 1991; amended at 24 Ill. Reg. 811, effective May 26, 2000; amended at 24 Ill. Reg. 1843, effective _____.

Section 270.115 Jurisdictional Questions

a) Mere Solicitation of Orders Not Doing Business

1) For a seller to incur Home Rule Municipal Retailers' Occupation Tax liability in a given home rule municipality, the sale must be made in the course of such seller's engaging in the retail business within such home rule municipality. In other words, enough of the selling activity must occur within the home rule municipality to justify concluding that the seller is engaged in business within the home rule municipality with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule municipality as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

b) Seller's Acceptance of Order

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- 1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the municipality or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule municipality or by someone working out of such place of business, the seller incurs Home Rule Municipal Retailers' Occupation Tax liability in that home rule municipality if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.
- 2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.
- 3) If a purchase order is accepted outside this State but the tangible personal property which is sold is in an inventory of the retailer located within a home rule municipality at the time of its sale (or is subsequently produced in the home rule municipality), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the home rule municipality) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such sale.
- c) Some Considerations Which Are Not Controlling
- 1) Delivery of the property within the municipality to the purchaser is not necessary for the seller to incur Home Rule Municipal Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the home rule municipality for the seller to be regarded as being engaged in the business of selling within such home rule municipality with respect to that sale.
- 2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Home Rule Municipal Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at

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- which title passes) is not a decisive consideration since the phrase in the municipality in the Home Rule Municipal Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et. al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.) **2
- d) Place of Business Where Long Term or Blanket Contracts are Involved Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such orders.
- e) Sales Through Vending Machines
- The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.
- f) Sales From Vehicles Carrying Uncommitted Stock of Goods
- The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.
- g) Sales of Coal or Other Minerals
- 1) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.
- 2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- 3) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt

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under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than a common carrier by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the home rule municipality ~~itself~~ and transports it over its own line to an out-of-State destination.

- 4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Home Rule Municipal, Non-Home Rule Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the home rule municipality, non-home rule municipality or home rule county where the retailer is located.

(Source: Amended at 24 Ill. Reg. 18356, effective _____)

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- 1) Heading of the Part: Metro East Park and Recreation District Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 395
- 3) Section Numbers:
 395.101 New Section
 395.105 New Section
 395.110 New Section
 395.115 New Section
 395.120 New Section
 395.125 New Section
 395.130 New Section

4) Statutory Authority: 20 ILCS 2505/2505-795

5) Effective Date of Rules: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11202

10) Has JCAR issued a Statement of Objections to this Rulemaking? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect?
 No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: This rulemaking results from Public Act 91-103, effective July 13, 1999. P.A. 91-103 provides that each Metro-East county may, by resolution, elect to become a part of the Metro-East Park and Recreation District. The law authorizes each participating county, by front-door referendum, to impose a sales tax at a

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rate of one-tenth of 1% in the District. The Department is required to collect and administer this tax after it is approved.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Karl W. Betz
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted rules begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 395
METRO-EAST PARK AND RECREATION DISTRICT RETAILERS' OCCUPATION TAX

Section

- 395.101 Nature of the Metro-East Park and Recreation District Retailers' Occupation Tax
- 395.105 Registration and Returns
- 395.110 Claims to Recover Erroneously Paid Tax
- 395.115 Jurisdictional Questions
- 395.120 Retailers' Occupation Tax Regulations
- 395.125 Penalties, Interest and Procedures
- 395.130 Effective Date

AUTHORITY: Implementing the Metro-East Park and Recreation District Act [70 ILCS 1605] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

SOURCE: Adopted at 24 Ill. Reg. 283.7, effective

Section 395.101 Nature of the Metro-East Park and Recreation District Retailers' Occupation Tax

a) Authority to Impose Tax
The board of directors of the Metro-East Park and Recreation District are authorized by the Metro-East Park and Recreation District Act [70 ILCS 1605] to impose the Metro-East Park and Recreation District Retailers' Occupation Tax on all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property that is titled and registered by an agency of this State's government, at retail in the district on the gross receipts from sales made in the course of the business within the district, if a proposition for the tax has been submitted to the electors of the county that creates or joins the district and approved by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of 1/10 of 1%. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by the board of directors under the Metro-East Park and Recreation District Act and this Part, and all civil penalties that may be assessed as an incident of that Act and this Part, shall be collected and enforced by the Illinois Department

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of Revenue (Department).

- b) Passing on the Tax
The legal incidence of the Metro-East Park and Recreation District Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Metro-East Park and Recreation District Act to reimburse themselves for their Metro-East Park and Recreation District Retailers' Occupation Tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that sellers are required to collect under the Use Tax Act [35 ILCS 105].
- c) Exclusion from "Gross Receipts"
Any amount added to the selling price of tangible personal property by the seller because of a Metro-East Park and Recreation District Retailers' Occupation Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois Use Tax [35 ILCS 105], the Home Rule Municipal Retailers' Occupation Tax [65 ILCS 5/8-11-1], the Metro East Mass Transit District Retailers' Occupation Tax [70 ILCS 3610/5.01], or the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3], and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to the Metro-East Park and Recreation District Retailers' Occupation Tax.

Section 395.105 Registration and Returns

- a) Separate Registration Not Required
A retailer's registration under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the Metro-East Park and Recreation District Act. No special registration for the Metro-East Park and Recreation District Retailers' Occupation Tax is required.
- b) Requirements as to Returns
1) The information required for the Metro-East Park and Recreation District Retailers' Occupation Tax shall be furnished on the Retailers' Occupation Tax return form filed by the retailer.
2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Metro-East Park and Recreation District Retailers' Occupation Tax information on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report Metro-East Park and Recreation District Tax information on the gross sales basis.

Section 395.110 Claims to Recover Erroneously Paid Tax

Claims for Multiple Taxes. If a claimant files a claim for refund on a transaction that was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A

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single claim for the total of all applicable taxes will suffice. The claim will be audited or otherwise processed as a single claim whenever possible. If approved, a single credit memorandum will be issued that may be used by the claimant or his authorized assignee to pay State or local tax liability as authorized in 86 Ill. Adm. Code 130.1505(b)(1).

Section 395.115 Jurisdictional Questions

- a) District Defined
When used in this Part, "district" means the Metro-East Park and Recreation District created under the Metro-East Park and Recreation District Act.
- b) Mere Solicitation of Orders Not Doing Business
1) For a seller to incur Metro-East Park and Recreation District Retailers' Occupation Tax liability in the district, the sale must be made in the course of the seller's engaging in the retail business within the district. In other words, enough of the selling activity must occur within the district to justify concluding that the seller is engaged in business within the district with respect to that sale.
2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the orders were subject to acceptance outside the taxing jurisdiction and title passed outside the jurisdiction, with the goods being shipped from outside the jurisdiction to the purchaser in the jurisdiction, did not constitute engaging in the business of selling within the jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the district as the taxing jurisdiction as much as to the State as the taxing jurisdiction.
- c) Seller's Acceptance of Order
1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the district or by someone who is working out of that place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the district or by someone working out of that place of business, the seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax liability in that district if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller

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has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary.

- 2) If a purchase order is accepted outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within the district at the time of its sale (or is subsequently produced in the district), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the district) will determine where the seller is engaged in business for Metro-East Park and Recreation District Retailers' Occupation Tax purposes with respect to the sale.

- d) Some Considerations That Are Not Controlling

- 1) Delivery of the property within the district to the purchaser is not necessary for the seller to incur Metro-East Park and Recreation District Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for interstate commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the district for the seller to be regarded as being engaged in the business of selling within the district with respect to that sale.

- 2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the District" in Section 30(a) of the Metro-East Park and Recreation District Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)

- e) Place of Business Where Long Term or Blanket Contracts Are Involved

Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Metro-East Park and Recreation District Retailers' Occupation Tax purposes with respect to the orders.

- f) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a

vending machine is the place where the vending machine is located when the sales are made.

- g) Sales from Vehicles Carrying Uncommitted Stock of Goods
The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made -- the vehicle carrying the stock of goods for sale being regarded as a portable place of business.

- h) Sales of Coal or Other Minerals

For the purpose of determining the tax that is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

- 1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- 2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it to an out-of-State destination.
- 3) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Metro-East Park and Recreation District Retailers' Occupation Tax on that sale will go to the jurisdiction where the retailer is located.

Section 395.120 Retailers' Occupation Tax Regulations

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130) that are not incompatible with the Metro-East Park and Recreation District Act shall apply to the tax imposed pursuant to this Part.

Section 395.125 Penalties, Interest and Procedures

All penalties (both civil and criminal) and provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting

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hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Metro-East Park and Recreation District Act as under the Illinois Retailers' Occupation Tax Act [35 ILCS 120].

Section 395.130 Effective Date

An ordinance imposing or discontinuing the Metro-East Park and Recreation District Retailers' Occupation Tax, or an ordinance extending the imposition of a tax, shall be adopted and a certified copy filed with the Department either:

- a) on or before the first day of April. After the filing the Department shall proceed to administer and enforce the tax as of the first day of July next following the filing; or
 - b) on or before the first day of October. After the filing the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following the adoption and filing.
- For purposes of determining which tax rate applies, the date of the sale is deemed to be the date of the delivery of the property.

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- 1) Heading of the Part: Metro East Park and Recreation District Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 396
- 3) Section Numbers:
 396.101 New Section
 396.105 New Section
 396.110 New Section
 396.115 New Section
 396.120 New Section
 396.125 New Section
 396.130 New Section
Adopted Action:
 New Section
 New Section
 New Section
 New Section
 New Section
 New Section
 New Section
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11216
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
 No
- 14) Are there any rules pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking results from Public Act 91-103, effective July 13, 1999. P.A. 91-103 provides that each Metro-East county may, by resolution, elect to become a part of the Metro-East Park and Recreation District. The law authorizes each participating county, by front-door referendum, to impose a sales tax at a

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rate of one-tenth of 1% in the District. The Department is required to collect and administer this tax after it is approved.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Karl W. Betz
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted rules begins on the next page:

DEPARTMENT OF REVENUE

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 396

METRO-EAST PARK AND RECREATION DISTRICT SERVICE OCCUPATION TAX

Section	
396.101	Nature of the Metro-East Park and Recreation District Service Occupation Tax
396.105	Registration and Returns
396.110	Claims to Recover Erroneously Paid Tax
396.115	Jurisdictional Questions
396.120	Service Occupation Tax Regulations
396.125	Penalties, Interest and Procedures
396.130	Effective Date

AUTHORITY: Implementing the Metro-East Park and Recreation District Act [70 ILCS 1605] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

SOURCE: Adopted at 24 Ill. Reg. 101.10, effective

Section 396.101 Nature of the Metro-East Park and Recreation District Service Occupation Tax

- a) Authority to Impose Tax
- If a Metro-East Park and Recreation District Retailers' Occupation Tax is imposed under 86 Ill. Adm. Code 395, the board of directors of the Metro-East Park and Recreation District shall also impose a tax on persons engaged in the business of making sales of service within the Metro-East Park and Recreation District, if a proposition for the tax has been submitted to the electors of the county that creates or joins the district and approved by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of 1/10 of 1%. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by the board of directors under the Metro-East Park and Recreation District Act and this Part, and all civil penalties that may be assessed as an incident of that Act and this Part, shall be collected and enforced by the Illinois Department of Revenue (Department).
- b) Passing on the Tax

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The legal incidence of the Metro-East Park and Recreation District Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their Metro-East Park and Recreation District Service Occupation Tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act [35 ILCS 110].

- c) Exclusion from "Cost Price"
- Any amount added by a serviceman to the selling price of tangible personal property as an incident to service because of Metro-East Park and Recreation District Service Occupation Tax, or because of the Illinois Service Occupation Tax [35 ILCS 115], the Home Rule Municipal Service Occupation Tax [65 ILCS 5/8-11-5], the Non-Home Rule Municipal Service Occupation Tax [65 ILCS 5/8-11-1.4], or the Metro East Mass Transit District Service Occupation Tax [70 ILCS 3610/5.01], shall not be regarded as a part of the selling prices that are subject to the Metro-East Park and Recreation District Service Occupation Tax.

Section 396.105 Registration and Returns

- a) A serviceman's registration under the Service Occupation Tax Act [35 ILCS 115] or the Illinois Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the purposes of the Metro-East Park and Recreation District Act. No special registration for the Metro-East Park and Recreation District Service Occupation Tax is required.
- b) The information required for the Metro-East Park and Recreation District Service Occupation Tax shall be furnished on the taxpayer's Illinois Service Occupation Tax return form.

Section 396.110 Claims to Recover Erroneously Paid Tax

Claims for Multiple Taxes. If a claimant files a claim for refund on a transaction that was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued that may be used by the claimant or his authorized assignee to pay State or local tax liability as authorized in 86 Ill. Adm. Code 140.1505(b)(1).

Section 396.115 Jurisdictional Questions

- a) When used in this Part, "district" means the Metro-East Park and Recreation District created under the Metro-East Park and Recreation District Act.
- b) If the Illinois Service Occupation Tax on a transaction is being remitted to the Department by the serviceman, the serviceman shall

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also pay Metro-East Park and Recreation District Service Occupation Tax to the Department on the same transaction if the serviceman's place of business is located in the district.

Section 396.120 Service Occupation Tax Regulations

To avoid needless repetition, the substance and provisions of all Service Occupation Tax Regulations (86 Ill. Adm. Code 140) that are not incompatible with the Metro-East Park and Recreation District Act shall apply to the tax imposed pursuant to this Part.

Section 396.125 Penalties, Interest and Procedures

All penalties (both civil and criminal) and provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Metro-East Park and Recreation District Act as under the Service Occupation Tax Act.

Section 396.130 Effective Date

An ordinance or resolution imposing or discontinuing the Metro-East Park and Recreation District Service Occupation Tax, or an ordinance extending the imposition of a tax, shall be adopted and a certified copy filed with the Department either:

- a) on or before the first day of April. After the filing the Department shall proceed to administer and enforce the tax as of the first day of July next following the filing; or
- b) on or before the first day of October. After the filing the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following the adoption and filing.

For purposes of determining which tax rate applies, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property that the serviceman retransfers as an incident to service.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Regional Transportation Authority Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 320
- 3) Section Numbers: Adopted Action:
320.115 Amendment
- 4) Statutory Authority: 70 ILCS 3615
- 5) Effective Date of Amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11239
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90-552). Also makes other clarifying changes.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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NOTICE OF ADOPTED AMENDMENTS

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 320
REGIONAL TRANSPORTATION AUTHORITY
RETAILERS' OCCUPATION TAX

Section	Nature of the Regional Transportation Authority Retailers' Occupation Tax
320.101	Registration and Returns
320.105	Claims to Recover Erroneously Paid Tax
320.110	Jurisdictional Questions
320.115	Incorporation of the Retailers' Occupation Tax Regulations by Reference
320.120	Penalties, Interest and Procedures
320.125	Effective Date

AUTHORITY: Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act [70 ILCS 3615/4.03].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 542, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 6316, effective April 11, 1991; amended at 24 Ill. Reg. 1134, effective 11/1/93.

Section 320.115 Jurisdictional Questions

- a) Mere Solicitation of Orders not Doing Business
 - 1) For a seller to incur Regional Transportation Authority Retailers' Occupation Tax liability in the metropolitan region, the sale must be made in the course of such seller's engaging in the retail business within the metropolitan region. In other words, enough of the selling activity must occur within the metropolitan region to justify concluding that the seller is engaged in business within the metropolitan region with respect to that sale. The same principles are applicable as to determining in which county of the metropolitan region a sale is made.
 - 2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

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b) Seller's Acceptance of Order

- 1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the metropolitan region or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section Regulation, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the metropolitan region or by someone working out of such place of business, the seller incurs Regional Transportation Authority Retailers' Occupation Tax liability in the metropolitan region if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.
- 2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.
- 3) If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within the metropolitan region at the time of its sale (or is subsequently produced in the region), then delivered in Illinois to the purchaser, the seller will be considered to be engaged in business in the metropolitan region for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such sale. The county in the region where the property is located at the time of sale (or subsequent production in a county in the metropolitan region) is determinative of the applicable Regional Transportation Authority Retailers' Occupation Tax rate.
- c) Some Considerations Which Are Not Controlling
 - 1) Delivery of the property within the metropolitan region to the purchaser is not necessary for the seller to incur Regional Transportation Authority Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the metropolitan region for the seller to be regarded as being engaged in the business of selling within the metropolitan region with respect to that sale.
 - 2) The point at which the tangible personal property will be used or

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consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Regional Transportation Authority Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the metropolitan region" in Section 4.03(e) of the Regional Transportation Authority Act [70 ILCS 3615/4.03(e)] (~~§11-Rev.-Stat.-1989--ch.-11-2/3-par. 704-03~~) refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.) **3

d) Place of Business where Long Term or Blanket Contracts are Involved Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such orders.

e) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

f) Sales from Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

g) Sales of Coal or other Minerals

1) For the purpose of determining whether the Regional Transportation Authority Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.

2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes

not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the metropolitan region ~~Illinois~~ and transports it over its own line to an out-of-State destination.

4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Regional Transportation Authority Retailers' Occupation Tax on that sale will be applicable if the retailer is located in the metropolitan region.

(Source: Amended at 24 Ill. Reg. 2007, effective

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers:
 130.101 Adopted Action:
 Amendment
 130.120 Amendment
 130.332 New Section
 130.551 Amendment
 130.1960 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) Effective Date of amendments: December 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
 130.101, July 28, 2000, 24 Ill. Reg. 11245
 130.120, August 4, 2000, 24 Ill. Reg. 11599
 130.332, August 4, 2000, 24 Ill. Reg. 11599
 130.551, July 28, 2000, 24 Ill. Reg. 11245
 130.1960, August 4, 2000, 24 Ill. Reg. 11599
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
 Yes. Sections 130.101 and 130.551
- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.330	Amendment	05/26/00, 24 Ill. Reg. 7617
130.605	Amendment	09/08/00, 24 Ill. Reg. 13617

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- 130.325 Amendment 09/29/00, 24 Ill. Reg. 14393
- 130.901 Amendment 11/13/00, 24 Ill. Reg. 16573
- 130.101 Amendment 11/17/00, 24 Ill. Reg. 16986
- 130.540 Amendment 11/17/00, 24 Ill. Reg. 16986
- 15) Summary and Purpose of Amendments: This rulemaking amends Section 130.120 by implementing Public Act 91-637, which provides that gross receipts from the sale of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes are exempt from Retailers' Occupation Tax. Adds New Section 130.332 to implement P.A. 91-644, which provides an exemption for automatic vending machines that prepare and serve hot foods or beverages. Also amends Section 130.1960 by providing an example of the tax treatment when an installment contract is sold. Sections 130.101 and 130.551 amends the Retailers' Occupation Tax Act by providing that, beginning on July 1, 2000 and through December 31, 2000, the tax imposed upon motor fuel and gasohol is at the rate of 1.25%. Provides examples of "motor fuel." Also provides that, beginning on July 1, 2000 and through December 31, 2000, the rate for prepayment of tax on motor fuel and gasohol is one cent per gallon.
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3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the metropolitan region ~~Illinois~~ and transports it over its own line to an out-of-State destination.

4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user and the Regional Transportation Authority Retailers' Occupation Tax on that ~~the~~ sale will be applicable if the retailer is located in the metropolitan region.

(Source: Amended at 24 Ill. Reg. 18.001, effective

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NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Adopted Action:

130.101 Amendment

130.120 Amendment

130.332 New Section

130.551 Amendment

130.1960 Amendment

4) Statutory Authority: 35 ILCS 120

5) Effective Date of amendments: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

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130.332, August 4, 2000, 24 Ill. Reg. 11599

130.551, July 28, 2000, 24 Ill. Reg. 11245

130.1960, August 4, 2000, 24 Ill. Reg. 11599

10) Has JCAR issued a Statement of Objection to these amendments? No

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13) Will this amendment replace an emergency amendment currently in effect?
Yes. Sections 130.101 and 130.551

14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
130.330	Amendment	05/26/00, 24 Ill. Reg. 7617
130.605	Amendment	09/08/00, 24 Ill. Reg. 13617

130.325 Amendment 09/29/00, 24 Ill. Reg. 14993
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16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

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130.335	Pollution Control Facilities
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130.425	Traded-In Property
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130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
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130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements

130.710 Procedure When Security Must be Forfeited

130.715 Sub-Certificates of Registration

130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances

130.725 Display

130.730 Replacement of Certificate

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130.801 General Requirements

130.805 What Records Constitute Minimum Requirement

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130.815 Preservation and Retention of Records

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130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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130.901 Civil Penalties

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130.1001 When Opinions from the Department are Binding

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Section

130.1101 Definition of Federal Area

130.1105 When Deliveries on Federal Areas Are Taxable

130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

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130.1201 General Information

130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

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130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

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130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale

130.1410 Requirements for Certificates of Resale (Repealed)

130.1415 Resale Number--When Required and How Obtained

130.1420 Blanket Certificate of Resale (Repealed)

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130.1501 Claims for Credit--Limitations--Procedure

130.1505 Disposition of Credit Memoranda by Holders Thereof

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ILLUSTRATION A:	Examples of Tax Exemption Cards
AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].	
SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg.	

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3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18364, effective _____.

SUBPART A: NATURE OF TAX

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Section 130.101 Character and Rate of Tax

The Retailers' Occupation Tax Act (the "Act") [35 ILCS 1201 ~~1111~~--Rev.--Stat--1989--ch--197--pars--440-et-seq--] imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. (For further information concerning "Gross Receipts", see Subpart D of this Part.)

a) How to Determine Effective Rate

1) For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller in accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes.

2) Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing construction contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase but will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing contractor must give such supplier a written, signed certification stating that specifically described materials are being purchased for use in performing a binding contract which was entered into before the effective date of the rate increase (specifying such date) and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, identifying the construction contract in question by its date and by naming the contractor's construction work involved, and by giving the location on the job site where the construction contract is being performed or is to be performed.

b) Tax Rate in Effect

The effective rate from January 1, 1985, through December 31, 1989, is 5%. On and after January 1, 1990, the effective rate is 6.25%.

Beginning on July 1, 2000 through December 31, 2000, with respect to

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- operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);
- k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
- n) of merchandise in bulk when sold from a vending machine for 1¢ (see Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].
- 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of

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- petroleum products to Amtrak.
- 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];
- v) of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];
- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];
- z) of personal property sold to an Illinois county fair association County-Fair-Association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)] County-Fair;
- aa) of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)];
- bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated

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as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);

cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless such items are transferred as jewelry and therefore subject to tax ~~unless such items are transferred as jewelry and therefore subject to tax~~ [35 ILCS 120/2-5(21)] (see Section 130.350);

dd) of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);

ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster

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relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; and

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

kk) of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];

ll) until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

mm) of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);

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- nn) of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);
- oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)] ~~†Section-2-5-of-the-Act†~~;
- pp) of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7] ~~†Section-2-7-of-the-Act†~~;
- qq) beginning July 20, 1999, game or game birds purchased at:
- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

rr) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:

 - 1) for the benefit of private home instruction; or
 - 2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)]~~†39†~~;

ss) of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for

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delivery to an ultimate destination on an item-by-item basis, and which:

- 1) will make an investment in a business enterprise project of \$100,000,000 or more;
 - 2) will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and
 - 3) is certified by the Department of Commerce and Community Affairs as contractually obligated to meet the requirements specified in subsection (1)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/11] ~~†Section-ii-of-the-Act†~~; and
- tt) of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/11.1] ~~†Section-3j-i-of-the-Act†~~. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/11.2] ~~†Section-3j-2-of-the-Act†~~. The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/11] ~~†Section-ii-of-the-Act†~~ and-
- uu) of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association,

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foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)] Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

(Source: Amended at 24 Ill. Reg. 10.11, effective _____)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.332 Automatic Vending Machines that Dispense Hot Foods or Beverages

- a) General. Notwithstanding the fact that the sales may be at retail, effective January 1, 2000, the Retailers' Occupation Tax does not apply to sales of new or used automatic vending machines that prepare and serve hot food and beverages. The exemption also applies to individual replacement parts for these machines. (See 35 ILCS 120/2-5(35).)
- b) Exempt Usage of Vending Machines
- 1) This exemption exempts from tax only automatic vending machines used in the preparation and serving of hot food and beverages. For purposes of this exemption, an automatic vending machine is an electrically operated machine into which customers insert U.S. legal tender, coinage or paper money to cause a food or beverage

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item to be dispensed, the temperature of which is heated above the ambient temperature at the time it is removed by the customer. The use of vending machines in any other activity will not qualify for this exemption. The use of vending machines to dispense or serve uneated food or beverage products will not be an exempt use and those machines will be subject to tax. The use of vending machines to sell or dispense any non-food items is not an exempt use and those machines will be subject to tax.

2) The use of microwave ovens or other devices as units separate and apart from vending machines to heat food or beverages sold by vending machines is not an exempt use and the microwave ovens or other devices will be subject to tax.

3) The exemption is limited to vending machines that operate and serve hot food and beverages such as soup, coffee and hot cocoa. Specifically constructed foundations or other buildings or structures that support or house vending machines do not qualify for this exemption.

4) An automatic vending machine that is converted to a nonexempt use will become subject to tax at the time of conversion based upon the original selling price. Replacement parts purchased initially for use in a qualifying manner and used in a non-qualifying manner will become subject to tax at the time of non-qualifying use.

c) Purchaser Certification

- 1) The purchaser of machines or replacement parts affected by this Section shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be a vending machine or replacement part used for the preparation and serving of hot food or beverages. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.
- 2) If all purchases are vending machines or replacement parts for vending machines used to prepare and serve hot food and beverages, a purchaser may provide a blanket exemption certificate that specifies that all purchases are exempt. A purchaser who buys both exempt and non-exempt machines and replacement parts is authorized to give an exemption certificate in which he certifies that a certain percentage of his purchases are for machines that prepare and serve hot food and beverage items and are therefore nontaxable.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel

- a) Every distributor, supplier or other reseller of motor fuel registered under the Motor Fuel Tax Law shall remit the Retailers' Occupation Tax prepayment due from a person engaged in the business of selling any motor fuel, except liquid propane gas or gasohol, at retail and who is not a licensed distributor or supplier, as defined in Section Sections 1.2, 3 or 1.14 3a, respectively, of the Motor Fuel Tax Law. [35 ILCS 505/1.2 and 1.14] ~~(((11-Rev-Stat-1985;--ch-426;--pars-419--and 419fett))~~
- b) Before July 1, 2000 and then beginning on January 1, 2001 and thereafter, the ~~the~~ Retailers' Occupation Tax paid to such distributor, supplier or other reseller of motor fuel shall be an amount equal to four ~~three~~ cents per gallon of the motor fuel, except gasohol as defined in Section 2-10 of the Act which shall be an amount equal to 3 cents per gallon, purchased from such distributor, supplier or other reseller. Beginning on July 1, 2000 and through December 31, 2000, the Retailers' Occupation Tax paid to such distributor, supplier or other reseller of motor fuel shall be an amount equal to one cent per gallon of the motor fuel and of gasohol as defined in Section 2-10 of the Act.
- c) The distributor, supplier or other reseller required to remit such Retailers' Occupation Tax shall file returns and deliver statements of the tax paid in accordance with Sections 2e and 2f of the ~~this~~ Act.
- d) The vendor's discount provided in Section 3 of the Retailers' Occupation Tax Act shall not apply to the amount of prepaid tax which is remitted to the Department, as required by 35 ILCS 120/2d, 2e and 2f ~~(((11-Rev-Stat-1985;--ch-426;--pars-441d;--441e--and-441f))~~.

(Source: Amended at 24 Ill. Reg. ~~12, 2d~~, effective _____)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.1960 Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts

- a) Lending Agencies -- When Liable For Tax
- Finance companies and other lending agencies are not relieved from liability for tax in cases in which they engage in the business of selling to users or consumers tangible personal property to which they hold or acquire title. Except as provided in subsection (b) of this Section, when a lending agency transfers title to a repossessed car to a user, the lending agency is engaging in the business of selling tangible personal property at retail and incurs Retailers' Occupation Tax liability on its receipts from such sales. It should be registered as a retailer under the Retailers' Occupation Tax Act and should file returns and otherwise comply with that Act.

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- b) Lending Agencies -- When Not Liable For Tax
- 1) Finance companies and other lending agencies are engaged primarily in the business of financing or acquiring the promissory notes given by purchasers of automobiles, furniture, refrigerators or other items of tangible personal property.
- 2) To guarantee payment of such notes, they sometimes take as security chattel mortgages upon such tangible personal property. In cases where the purchaser of the automobile or other tangible personal property fails to meet his obligation, the lending agency repossesses the property and sells it to satisfy the obligation evidenced by the notes. In connection with such sales, the lending agency acts as agent for the owner of the repossessed property if such owner is known or disclosed to the purchaser, and if the lending agency does not take title to the property; the lending agency, under such circumstances, is not liable for payment of any Retailers' Occupation Tax with respect to the proceeds from such sales.
- 3) Even if the lending agency does title a repossessed motor vehicle in its name, if the original buyer, after the expiration of the redemption period provided for in the Retail Installment Sales Act [815 ILCS 405] ~~(((11-Rev-Stat-1979;--ch-421-1/2;--pars-501 et--seq-))~~, is granted permission to redeem and to resume possession of the vehicle and to continue performance under his original installment contract without any change in the terms of such contract, and the lending agency receivable the repossession title to such original buyer, the transaction is not regarded as a sale and so is not taxable.
- c) Installment Sales
- 1) When a retailer of tangible personal property sells an installment contract or "paper" to a third party, the difference between the selling price of the tangible personal property and the selling price of the installment contract or "paper" is a cost of doing business and is therefore not deductible in computing Retailers' Occupation Tax liability. Retailers' Occupation Tax is measured by the total selling price of the tangible personal property purchased from the retailer for use or consumption. Upon sale of the installment contract or "paper" to a third party, Retailers' Occupation Tax becomes due based on the entire selling price to the purchaser of the tangible personal property, with credit allowed for any tax already remitted to the Department based on the receipts from the sale of the tangible personal property. As an illustration, a computer vendor enters into an installment sales contract with a business for a computer system. The selling price of the computer system is \$120,000 and the contract requires monthly installment payments of \$10,000 for one year. After the business makes the first payment, the computer vendor sells the installment contract to a bank for \$90,000. Upon the sale of the installment contract to the bank,

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the computer vendor incurs Retailers' Occupational Tax on \$120,000 (the entire selling price to the original purchaser), with credit allowed for the tax that was remitted on the first \$10,000 payment made by the business.

- 2) For purposes of this Section, "paper" means any instrument of indebtedness which was acquired by the retailer from the purchaser of the tangible personal property. Sales of "paper" to a third party includes the sale of accounts receivable as well as assignments or sales of the actual instruments of indebtedness themselves.

d) Bad Debts

- 1) In case a retailer repossesses any tangible personal property and subsequently resells such property to a purchaser for use or consumption, his gross receipts from such sale of the repossessed tangible personal property are subject to Retailers' Occupation Tax. He is entitled to a bad debt credit with respect to the original sale in which the default has occurred to the extent to which he has paid Retailers' Occupation Tax on a portion of the price which he does not collect, or which he is not permitted to retain because of being required to make a repayment thereof to a lending agency under a "with recourse" agreement. Retailers of tangible personal property other than motor vehicles, watercraft, trailers and aircraft that must be registered with an agency of this State may obtain this bad debt credit by taking a deduction on the returns which they file with the Department for the month in which the federal income tax return or amended return on which the receivable is written off is filed, or by filing a claim for credit or provided in subsection (d)(3) of this Section. Because retailers of motor vehicles, watercraft, trailers and aircraft do not pay Retailers' Occupation Tax to the Department on retail sales of motor vehicles, watercraft, trailers, and aircraft with monthly returns, but remit the tax to the Department on a transaction by transaction basis, they are unable to take a deduction on the returns that they file with the Department, but may file a claim for credit with the Department, as provided in subsection (d)(3), on any transaction with respect to which they desire to receive the benefit of the repossession credit.

- 2) Retailers who incur bad debt on any tangible personal property that is not repossessed may also obtain bad debt credit as provided in subsections (d)(1) and (3).

- 3) In the case of tax paid on an account receivable that becomes a bad debt, the tax paid becomes a tax paid in error, for which a claim for credit may be filed in accordance with Section 6 of the Retailers' Occupation Tax Act, on the date that the Federal income tax return or amended return on which the receivable is written off is filed.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers: Adopted Action
1030.84 Amendment
- 4) Statutory Authority: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].
- 5) Effective Date of Amendment: December 4, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 12854, August 25, 2000

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: In Section 1034.84, added statutory language to the definition of "Proof of Insurance".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect?
Yes

14) Are there any amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
1030.65	Amendment	24 Ill. Reg. 14414 (September 29, 2000)
1030.80	Amendment	24 Ill. Reg. 14414 (September 29, 2000)
1030.81	Amendment	24 Ill. Reg. 14414 (September 29, 2000)
1030.130	Amendment	24 Ill. Reg. 14414 (September 29, 2000)

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- 15) Summary and Purpose of amendment: Prior to July 1, 2000, applicants for a road test were required to affirm in writing that the vehicle for the test drive was insured pursuant to the Illinois Mandatory Insurance Law. Subsequently, on July 1, 2000, the Office of the Secretary of State entered into a collective bargaining agreement with the Service Employees International Union, which represents Secretary of State employees working in driver's license facilities. The new Agreement provides that an applicant will be required to show proof of insurance prior to a road test
- 16) Information and questions regarding this adopted amendment shall be directed to:

Robert W. Mueller
Assistant General Counsel
Driver Services Department
2701 S. Dirksen Parkway
Springfield IL 62723
217-782-5356

The full text of the adopted amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030

ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers-References
1030.30	Classfication Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening with Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts - Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement For Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Consular Licenses
1030.96	Restricted Commercial Driver's License
1030.97	Invalidation of a Driver's License, Permit and/or Driving Privilege
1030.98	School Bus Commercial Driver's License
1030.100	Anatomical Gift Donor
1030.110	Emergency Medical Information Card
1030.115	Change-of-Address
1030.120	Issuance of a Probationary License
1030.130	Grounds for Cancellation of a Probationary License

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APPENDIX A Questions Asked of a Driver's License Applicant
APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992,

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effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. _____, effective _____.

Section 1030.84 Vehicle Inspection

a) For the purposes of this Section terms shall be defined as follows:

"Examiner" - employee of the Secretary of State who is qualified to administer a road test.

"First Division Vehicle" - those motor vehicles that which are designed to carry not more than ten persons.

"Commercial Motor Vehicle" - a motor vehicle having a GVWR of 26,001 pounds or more, or such lesser GVWR as subsequently determined by Federal regulations (49 CFR 383); or any combination of vehicles with a GCWR of 26,001 pounds or more, provided the GVWR of any vehicle(s) being towed is 10,001 pounds or more; or a vehicle designed to transport 16 or more persons; or a vehicle transporting hazardous materials that is required to be placarded. The definition does not include recreational vehicles as defined in Section 1-169 of the Illinois Vehicle Code [625 ILCS 5/1-169] ~~{111-Rev-Stat-1989, ch-95-t/27-par-1-169}~~ when operated primarily for personal use, military vehicles being operated by non-civilian personnel or firefighting equipment owned or operated by or for a governmental entity.

"Gross Combination Weight Rating (GCWR)" - the GVWR of the power unit plus the GVWR of the towed unit(s) or the combined registered weight of the power unit plus the towed unit, whichever is greater.

"Gross Vehicle Weight Rating (GVWR)" - the value specified by the manufacturer(s) as the maximum loaded weight of a single vehicle, or the registered gross weight, whichever is greater.

"Hazardous Materials" - substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce [49 USCA 1802]. ~~{49 U.S.C.A. -1002-t}~~

"Mandatory Insurance" - requirement of insurance as provided by

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Article 6 of the Illinois Safety and Family Financial Responsibility Law ~~Section-7-601-et-seq.~~ of the Illinois Vehicle Code [625 ILCS 5/Ch. 7, Art. VI]. ~~{111-Rev-Stat-1989, ch-95-t/27-par-7-601-t}~~

"Mandatory Liability Insurance Policy" - a liability insurance policy issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property pursuant to Section 7-203 of the Illinois Vehicle Code [625 ILCS 5/7-203] ~~{111-Rev-Stat-1989, ch-95-t/27-par-7-203}~~, and issued in accordance with the requirements of Sections 143a and 143a-2 of the Illinois Insurance Code, ~~as amended~~ [215 ILCS 5/143a and 143a-2]. ~~{111-Rev-Stat-1989, ch-73-par-755-t}~~ The definition does not include vehicles subject to the provisions of Chapters 18 or 18a, Article III, or Sections 7-609, 12-606, or 12-707.01 of the Illinois Vehicle Code; vehicle required to file proof of liability insurance with the Illinois Commerce Commission; vehicles covered by a certificate of self insurance pursuant to Section 7-502 of the Illinois Vehicle Code; vehicles owned by the United States Government, State of Illinois, or any political sub-division, municipality or local mass transit district; implements of husbandry, other vehicles complying with laws which require insurance in amounts meeting or exceeding the minimum amounts required under the Illinois Vehicle Code; and inoperable or stored vehicles that are not operated.

"Motorcycle" - every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

"Pedalcycle" - motor driven cycle whose speed attainable in 1 one mile is 30 thirty miles per hour or less, which is equipped with a motor that which produces 2 two brake horse power or less.

"Proof of Insurance" - Illinois insurance card [625 ILCS 5/7-602(a)]; the combination of proof of purchase of the motor vehicle within the previous 60 days and a current insurance card issued for the motor vehicle replaced by such purchase [625 ILCS 5/7-602(b)]; a current declarations page of a liability insurance policy [625 ILCS 5/7-602(c)]; liability insurance binder, certificate of liability insurance or receipt for payment to an insurer or its authorized representative for a liability insurance premium, provided such document contains all information the Secretary of State by rule or regulation may require [625 ILCS 5/7-602(d)]; a current rental agreement [625 ILCS 5/7-602(e)]; registration plates, registration sticker or other evidence of registration issued by the Secretary only upon submission of proof of liability insurance [625 ILCS 5/7-602(f)];

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or a certificate, decal, or other document or device issued by a governmental agency for a motor vehicle indicating the vehicle is insured for liability [625 ILCS 5/7-602(g)] or has qualified for an exemption under the law.

"Registration sticker" - a device issued by the Secretary of State to be attached to a rear registration plate that will renew the registration and registration plate or plates for a pre-determined period of time.

"Religious Organization Bus" - any vehicle other than a vehicle of the First Division or a school bus, as defined in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182], which is exclusively owned and operated by a religious organization and is used primarily in conducting the official activities of such organization.

"Second Division Vehicle" - vehicles that which are designed for carrying more than 10 ten persons, those designed or used for living quarters, those vehicles that which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses.

"Secretary of State" - the Secretary of State of Illinois.

"Senior Citizen Transportation Vehicle" - any vehicle other than a vehicle of the First Division or a school bus, as defined in Section 1-182 of the Illinois Vehicle Code, that which is exclusively owned and operated by a senior citizen organization and is used primarily in conducting the official activities of such organization.

b) An applicant, who is required to take the road test, as defined in Section 1030.85 of this Part, must provide a representative vehicle for the test. The vehicle will be safety inspected by an examiner prior to the road test. A vehicle that which is not properly equipped or that which does not have equipment in safe operating order will be rejected for use in the road test. The following equipment shall be safety inspected as required for the type of representative vehicles being used to administer the road test:

- 1) Registration plates shall be attached or affixed to the motor vehicle pursuant to Section 3-413 of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/3-413]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--3-413--)))~~ The owner of a vehicle who which does not have registration plates and/or a registration sticker shall present proper documentation,

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pursuant to Section 3-407 of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/3-407]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--3-407--)))~~ showing that proper registration has been applied for, prior to use of the vehicle for road test.

- 2) When lighted lamps are required pursuant to Section 12-201(b) of the Illinois Vehicle Equipment Law for the road test, motor vehicles shall have mounted, exhibit and operate such lamps pursuant to Sections 12-201, 12-202, 12-204, 12-205, 12-207, 12-208, 12-209, 12-210 and/or 12-215 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-201, 12-202, 12-204, 12-205, 12-207, 12-208, 12-209, 12-210 and/or 12-215]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--12-201--12-202--12-204--12-205--12-207--12-208--12-209--12-210--and/or--12-215--)))~~ A motorized pedalcycle must have mounted and display a lamp(s) and reflector as required in Section 11-1507.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-1507.1]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--11-1507--1--)))~~
- 3) When windshield wipers are required pursuant to Section 12-503(d) of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-503(d)] ~~(((11--Rev--Stat--1989--ch--95--1/27--par--12-503--d--)))~~, they must be in proper operating condition as defined in the same statute.
- 4) The horn must be in proper working order pursuant to Section 12-601 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-601]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--12-601--)))~~ Horns do not include a siren, whistle, or bell.
- 5) No person shall drive a motor vehicle with any sign, poster, window application, reflective material or nonreflective material upon the front windshield, sidewings, or side windows immediately adjacent to each side of the driver which materially obstructs, obscures or impairs the view from both within or without the vehicle. No person shall drive a motor vehicle with any objects placed or suspended between the driver and the front windshield or rear window which materially obstructs the driver's view. No person shall drive a motor vehicle when the windshield, side or rear windows are in such defective condition or repair as to materially impair the driver's view to the front, side or rear. A vehicle equipped with an unobstructed rear view mirror will be deemed to be in compliance in the event the rear window of the vehicle is materially obscured. [625 ILCS 5/12-502] ~~(((11--Rev--Stat--1989--ch--95--1/27--par--12-502--)))~~
- 6) No vehicle may be used for the road test if one or more tires are unsafe as defined in Section 12-405 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-405]. ~~(((11--Rev--Stat--1989--ch--95--1/27--par--12-405--)))~~ A vehicle equipped with metal studded tires may not be used for the road

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- test.
- 7) The service brakes, foot or hand operated, must be in a condition which allows activation with one movement of the activating device. All First and Second Division vehicles must be equipped with an operable emergency brake. A Class M motorcycle shall have two methods of braking. A Class L motor-driven cycle or pedalcycle shall have at least one method of braking.
- 8) Each driver and front seat passenger of a 1965 or later model motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened seat safety belt pursuant to Section 12-603.1 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-603.1]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-603-1.¶ Such requirements shall not apply to a driver possessing a written statement from a physician that such a person is unable, for medical or physical reasons, to wear a seat safety belt, or to certain motor vehicles that which are not required to be equipped with seat safety belts under Federal Law [49 CFR 393.93]. ¶49-EPR-393-93-¶ A retractable lap seat belt shall be provided for the driver of a school bus and must be used by the driver at all times while the bus is being operated, as required by Section 12-807 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-807]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-807-¶
- 9) Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such motor vehicle. A rectangular rearview mirror shall be located on the right and left sides of each Second Division school bus forward of the driver's seat. The mirrors shall have a minimum horizontal dimension of 5 five inches and a minimum vertical dimension of 10 ten inches.
- 10) The seat for the person giving the examination must be securely affixed in a location that assures the examiner's safety and allows the examiner to perform proper scoring of the road test pursuant to Section 1030.85 of this Part. The seat must be free from excessive soil, grease, and should have no protruding springs. Vehicles must not have loose objects on the seats or floors which could pose a danger to the driver or examiner.
- 11) The steering wheel must not be broken or have any part missing. The steering wheel when worked back and forth shall not have more than 5-10 degrees of free play (approximately 2" at the rim of a 20" steering wheel). Vehicles that which have excessive free play (more than 10 degrees) in the steering mechanism shall be rejected as unsafe. Free play is the degree of movement the steering wheel must have before the front wheels move.
- 12) Both front vehicle doors must be operable from the inside and outside of the vehicle with the standard latching mechanism. Doors may not be wired or strapped shut.

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- 13) Every motor vehicle of a width or design which would not allow hand signals to be adequately visible from the front and rear, shall be equipped with an electric turn signal device that which indicates the intention of the driver to turn to the right or to the left. Such signalling device shall be in the form of flashing red or amber lights located at the rear of the vehicle on the side toward which the turn is to be made, mounted on the same level and as widely spaced laterally as practicable. Turn signal lamps must be visible from a distance of not less than 300 feet in normal sunlight.
- 14) Any motor vehicle or combination vehicle that which operates with air brakes must have air brake hoses that are free from breaks, leaks or bulges that which may prevent or hinder the safe operation of the vehicle braking system. Any motor vehicle or combination vehicle that which operates with air brakes will not be permitted to be used for the road test if the air pressure gauge reading fails to maintain 95 pounds per square inch pressure during normal pressure buildup.
- 15) Three safety flags, flares, fuses or reflectors shall be provided in all Second Division vehicles as described in Section 12-702 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-702]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-702-¶
- 16) An operating speedometer shall be mounted in all vehicles designated as a school bus in such a manner that it is readable to the seated driver.
- 17) The emergency doors at the front and the rear of a designated school bus should open from the inside. The latch must be in operable condition. An alarm system that is visible and audible to the driver must be activated when the engine is running and the emergency door is unlatched.
- 18) One fire extinguisher shall be located in a position readily accessible to the driver of a school bus pursuant to Section 12-808 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-808]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-808-¶
- 19) A school bus shall carry a removable and readily identifiable first aid kit, mounted in full view of and readily accessible to the driver pursuant to Section 12-809 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-809]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-809-¶
- 20) All school buses shall be equipped with an 8-lamp flashing signal system consisting of two alternately flashing red signal lights and two flashing yellow signal lights mounted at the front and rear of the bus pursuant to Section 12-805 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-805]. ¶11-Rev-Stat-1989-ch-95-1/2-par-12-805-¶ Each signal lamp shall be a sealed beam at least 5 1/2 inches in

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diameter and shall have sufficient intensity to be visible at 500 feet in normal sunlight. The system shall be actuated only by means of a manual switch. There shall be a device for indicating to the driver that the system is operating properly or is inoperative.

21) All Second Division vehicles, as required by Section 12-202 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-202] ~~{iii-Rev-Stat-1999-ch-95-1/2-par-12-202}~~ ~~12-202~~, shall have mounted and properly display clearance, identification and side marker lamps. Such lamps shall be illuminated for the road test, during periods when headlights are required pursuant to Section 12-201 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-201]. ~~{iii-Rev-Stat-1999-ch-95-1/2-par-12-201}~~

22) A stop arm shall be placed on the driver's side of each Second Division school bus and may be operated either manually or mechanically. The design of this stop arm shall comply with Section 12-803 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-803]. ~~{iii-Rev-Stat-1999-ch-95-1/2-par-12-803}~~

23) The tailpipe(s) of each Second Division school bus should extend beyond the rear end of the chassis frame, but not beyond the rear of the bumper.

24) A religious organization bus or senior citizen transportation vehicle may be of any color and have any markings designating its purpose other than those required for school buses pursuant to Sections 12-801, 12-802, 12-804 and 12-806 of the Illinois Vehicle Equipment Law of the Illinois Vehicle Code [625 ILCS 5/12-801, 12-802, 12-804 and 12-806]. ~~{iii-Rev-Stat-1999-ch-95-1/2-par-12-801; 12-802; 12-804 and 12-806}~~ A road test, for a religious organization bus or senior citizen transportation vehicle restriction, may be administered in any vehicle of the proper representative type for the license restriction requested (see 92 Ill. Adm. Code 1030.92). ~~{92-iii-Adm-Code-1030-92}~~

25) No person shall operate any motorcycle, motor-driven cycle or pedalcycle for the road test with handlebars higher than the height of the shoulders of the operator when seated in the upright driving position.

26) The operator of a motorcycle, motor-driven cycle or pedalcycle, used for the road test shall be protected by glasses, goggles or a transparent shield pursuant to Section 11-1404 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-1404]. ~~{iii-Rev-Stat-1999-ch-95-1/2-par-11-1404}~~

27) Second Division vehicles or medical transport vehicles shall display a certificate of safety then in effect pursuant to Sections 13-111 and 13-114 of the Illinois Vehicle Inspection Law of the Illinois Vehicle Code [625 ILCS 5/13-111 and 13-114] ~~{iii-Rev-Stat-1999-ch-95-1/2-par-13-111 and 13-114}~~, except

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those vehicles displaying a Department of Transportation federal census number on the side of the vehicle shall not be subject to such certificate.

c) Prior to taking a road test, as defined in Section 1030.85 of this Part, each applicant shall execute an affirmation in compliance with Section 1-109 of the Illinois Code of Civil Procedure stating that the vehicle to be used for the road test:

1) is insured pursuant to, and in compliance with, the Illinois Mandatory Insurance Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 7, Art. VI] (the applicant shall provide proof of insurance); or

2) falls within one of the stated exempted categories. ~~{iii-Rev-Stat-1999-ch-95-1/2-par-7-601-et-seq}~~

If the applicant refuses to execute or fails to comply with this Section, then no road test shall be given the applicant in that vehicle until such time as the applicant complies.

(Source: Amended at 24 Ill. Reg. ~~1030.85~~, effective ~~10/1/99~~)

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1) Heading of the Part: Diesel Emission Inspection Program

2) Code Citation: 92 Ill. Adm. Code 460

<u>Section Numbers:</u>	<u>Adopted Action:</u>
460.100	New Section
460.110	New Section
460.120	New Section
460.130	New Section
460.140	New Section
460.200	New Section
460.210	New Section
460.220	New Section
460.230	New Section
460.240	New Section
460.250	New Section
460.300	New Section
460.310	New Section
460.320	New Section
460.330	New Section
460.400	New Section
460.410	New Section
460.500	New Section
460.510	New Section
460.520	New Section
460.600	New Section
460.605	New Section
460.610	New Section
460.620	New Section

4) Statutory Authority: Implementing and authorized by Section 13-109.1 and 13-114 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-109.1 and 13-114] (See P.A. 91-254 and P.A. 91-865, effective July 1, 2000.)

5) Effective Date of Rules: December 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 14, 2000, 24 Ill. Reg. 10112

10) Has JCAR issued a Statement of Objections to these rules? Yes

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A) Statement of Objection: October 6, 2000, 24 Ill. Reg. 14810

B) Agency Response: _____, Ill. Reg. _____

C) Date Agency Response Submitted for Approval to JCAR: November 29, 2000

11) Differences between proposal and final version:

At Section 460.120(b), the Department removed the italics from "(*Parm Truck Registration (i.e., license plate)*)".

At Section 460.200(d), after "Law", the Department added "to conduct vehicle safety inspections".

At Section 460.310(b)(2)(P), the Department deleted "press any key".

At Section 460.400(b), the Department italicized the entire subsection.

At Section 460.500(b), "reinspection at the same Station" has been deitalicized.

At Section 460.510(b), "consequence" has been changed to "punishable fine of \$1000".

At Section 460.520(c), the Department deleted, "the vehicle's owner/operator may be required to present the DEICC to the Secretary of State before obtaining annual registration for the vehicle. The Department of State Police and other law enforcement officers may enforce this Section during routine roadside enforcement activities."

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: By this Notice of Adopted Rules, the Department has established the Diesel Emission Inspection Program as mandated by P.A. 91-254 and P.A. 91-865, effective July 1, 2000. A brief Section by Section analysis follows:

Section 460.100 Purpose

This Part establishes requirements to be followed by an owner of a diesel-powered vehicle registered within an affected area in Illinois that is subject to a diesel emission inspection in accordance with Section 13-109.1 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-109.1].

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Inspection, compliance and enforcement procedures are also covered by this Part.

Section 460.110 Definitions

Terms used throughout this Part to describe the diesel emission inspection program are defined in this Section.

Section 460.120 Applicability

This Part is applicable to Intrastate Carriers of Property or Passengers and Interstate Carriers of Passengers. Diesel-powered farm vehicles registered as farm trucks are exempt from this Part. Finally, units of local government within the affected areas, including home rule units, cannot require or conduct a diesel emission inspection program that does not meet or exceed the standards in this Part.

Section 460.130 Address for Correspondence

The address for correspondence pertaining to this Part is provided in this Section.

Section 460.140 Incorporation by Reference and Outpoint Standards

The Department has incorporated by reference the Society of Automotive Engineers (SAE) Recommended Practice J1667 "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel-Powered Vehicles," February 1996 edition, and the United States Environmental Protection Agency (USEPA) "Guidance to States on Smoke Opacity Cutpoints to be used with the SAE J1667 In-Use Smoke Test Procedure," April 1997 edition. The Department has also set out in this Section the opacity outpoint standards that are recommended by the above-mentioned SAE guide.

Section 460.200 Official Testing Station RequirementsSection 460.210 Private Official Testing Stations

These Sections set out the general requirements an Official Testing Station, public or private, permitted by the Department and located in an affected area, must follow when conducting diesel emission inspections in accordance with 625 ILCS 5/13-109.1. Among other things, Section 460.200 provides for the obtaining of diesel emission inspection equipment by a public Station free of charge from the Department at the time it is permitted to perform emission inspections as long as the Department still has equipment available. The Department purchased enough equipment to supply all public Official Testing Stations in the affected areas existing upon the enactment of P.A. 91-254 and P.A. 91-865. Priority for furnishing equipment will be based upon the date a Station is permitted to

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perform diesel emission inspections. When the Department's supply of equipment runs out, any owner of a public Official Testing Station who opens a Station will be required to purchase the equipment necessary for compliance with this Part. Private Stations must purchase their own Department approved diesel emission inspection equipment regardless of the date of purchase.

Section 460.220 Responsibilities of Official Testing Station Owner (Public and Private)

This Section addresses the responsibilities of a Station Owner with respect to such things as the training of employees to become Certified Diesel Emission Testers, the conducting of diesel emission inspections, the maintenance of diesel emission inspection equipment, the repairs of malfunctioning equipment, the payment of money to the Department for the certificate used to validate the diesel emission inspections, the surrendering of a Station's permit for cause, and, finally, for compliance with this Part.

Section 460.230 Responsibilities of Certified Diesel Emission Tester

This Section contains, among other things, the requirements for becoming a Certified Diesel Emission Tester (CDET), including the testing involved for certification and the requirements for maintaining certification as a CDET. Additionally, the responsibilities of the CDET - such as, having sole physical control of the vehicle being tested during the entire diesel emission inspection 96 are contained in this Section.

Section 460.240 Supervision of Official Testing Station and Enforcement of

Department Policies This Section contains the responsibilities for those individuals authorized by the Department - Vehicle Compliance Inspectors and administrative personnel employed by the Department - to conduct announced and unannounced visits to Stations to monitor and enforce this Part. These responsibilities include such things as reviewing CDET applications, conducting CDET testing, inspecting the building and equipment, closing a Station when diesel emission inspection equipment is inoperative or inaccurate, inspecting forms and validation certificates, and investigating complaints against a Station or CDET. An authorized representative of the Department may also issue warning tickets or citations for violations of 625 ILCS 5/Ch. 13 and this Part. Finally, the Department's representative may require a Station Owner to cease diesel emission inspections upon suspension or revocation of diesel emission inspection testing privileges.

Section 460.250 Diesel Emission Inspection Official Testing Station Equipment, Supplies and Forms

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All required diesel emission inspection equipment is on loan to public Official Testing Stations. The equipment is owned by and will remain the property of the Department. The Owner of a public Official Testing Station furnished with diesel emission inspection equipment by the Department must sign the "Diesel Emission Inspection Equipment Bailment Agreement" that assigns responsibility for damage or loss of the equipment due to theft, vandalism, fire or other occurrences, including negligent operation of the equipment, to the Station Owner. This Section also covers validation certificates, forms and supplies and the care and responsibility of those items by the Station Owner.

Section 460.300 Vehicle PreparationSection 460.310 Equipment Set-UpSection 460.320 Snap-Acceleration Inspection ProceduresSection 460.330 Reporting of Inspection Results

These Sections contain the procedures performed by the CDET in conducting the actual inspection of a diesel-powered vehicle - the Snap-Acceleration Inspection. Provisions concerning vehicle preparation, set-up of the diesel emission inspection equipment, procedures for the execution of the Snap-Acceleration Inspection, and reporting of the inspection results are contained in these Sections.

When a vehicle passes its diesel emission inspection, the results of the inspection will be recorded on the back of a Diesel Emission Inspection Compliance Card (DEICC) and a validation certificate will be attached to the space provided on the card. The DEICC must be kept in the vehicle as proof of compliance.

Section 460.330 also outlines procedures for vehicles that fail to meet minimum outpost standards. In this case, a 30-Day Warning Notice card is issued along with an explanation that the vehicle must be repaired and reinspected at the same station within 30 days or the vehicle will be placed out-of-service. Finally, Section 460.330 also details the responsibilities of the Station Owner with respect to diesel emission inspection printer tapes.

Section 460.400 Rates and ChargesSection 460.410 Rate Change Procedure

The Department has determined that the following rates are just and reasonable and are deemed to be filed by the Station with the Department. These rates may be changed upon application of the Owner of a Station or complaint of any person. Procedures for changing the rates are set out in

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Section 460.410. The rates are as follows:

Initial Diesel Emission Inspection: \$30

Reinspection - Diesel Emission Inspection: \$25

No other rate or charge will apply.

Section 460.500 Diesel Emission Inspection 30-Day Warning Notice

This Section further explains the 30-Day Warning Notice mentioned in Section 460.330. Corrections that may be made to improve test results on a vehicle that needs reinspecting are also listed in this Section.

Section 460.510 Diesel Emission Inspection Out-of-Service Order

When a vehicle fails to pass a reinspection within 30 days of receipt of a 30-Day Warning Notice and the Owner has not obtained a waiver in accordance with the requirements under Section 460.600, an out-of-service order will be sent to the company that owns or operates the vehicle. A vehicle remains out-of-service until a diesel emission reinspection is passed or a waiver is obtained.

Section 460.520 Diesel Emission Inspection Enforcement

This Section describes the enforcement of the out-of-service order by the Secretary of State, the Department of State Police and other law enforcement officers during roadside enforcement activities. Operating a vehicle in violation of an out-of-service order is a petty offense punishable by a \$1,000 fine. Additionally, no emergency vehicle may be placed out-of-service.

Section 460.600 Diesel Emission Inspection Waiver Requirements for Failing

Inspection and Reinspection A Certificate of Waiver for Failing an Inspection and Reinspection will be issued to the owner of a diesel-powered vehicle when the requirements of this Section are met. A waiver will be denied when all of the waiver criteria set forth in this Section have not been met. A Certificate of Waiver must be kept in the vehicle as proof of diesel emission inspection compliance. A Certificate of Waiver does not expire.

Section 460.605 Diesel Emission Inspection Waiver Requirements for an Ungoverned Vehicle

When the owner of a diesel-powered vehicle without a device to govern engine revolutions per minute provides the Department with a letter from

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the vehicle manufacturer or dealer affirming that the vehicle was manufactured un Governed, the vehicle will be exempt from meeting the requirements of this Part.

The waiver request will be denied without proof in the form of a letter from the vehicle manufacturer that the vehicle was manufactured un Governed.

Section 460.610. Grievance Procedures

The Department will conduct an investigation upon receiving a petition from any person aggrieved by a decision regarding the failure of a diesel emission reinspection. A person denied a waiver may also petition the Department for an investigation of that decision. Upon receipt of the grievance by the Department, an investigation is conducted during which the vehicle in question is declared out-of-service. The investigation will be concluded within 45 days and a determination of the correctness or incorrectness of the decision precipitating the grievance will be made. The Department's determination is the final administrative action available to a person filing a grievance.

Section 460.620 Replacement of Diesel Emission Inspection Compliance Card

This Section contains procedures for obtaining a replacement DEICC.

This rulemaking will replace an emergency rule on diesel emission inspections currently in place.

- 16) Information and questions regarding this adopted rule shall be directed to:

Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the adopted rules begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 460

DIESEL EMISSION INSPECTION PROGRAM

SUBPART A: GENERAL

Section	Purpose
460.100	Definitions
460.110	Applicability
460.120	Address for Correspondence
460.130	Incorporation by Reference and Cutpoint Standards
460.140	

SUBPART B: OFFICIAL TESTING STATION REQUIREMENTS FOR DIESEL EMISSION INSPECTIONS

Section	Official Testing Station Requirements
460.200	Private Diesel Official Testing Stations
460.210	Responsibilities of Official Testing Station Owner (Public and Private)
460.220	Responsibilities of Certified Diesel Emission Tester
460.230	Supervision of Official Testing Station and Enforcement of Department Policies
460.240	Diesel Emission Inspection Official Testing Station Equipment, Supplies and Forms
460.250	

SUBPART C: PROCEDURES FOR PERFORMING THE SNAP-ACCELERATION INSPECTION

Section	Vehicle Preparation
460.300	Equipment Set-Up
460.310	Snap-Acceleration Inspection Procedures
460.320	Reporting of Inspection Results
460.330	

SUBPART D: LEVEL OF RATES AND CHARGES

Section	Rates and Charges
460.400	Rate Change Procedure
460.410	

SUBPART E: WARNING NOTICES, OUT-OF-SERVICE ORDER AND ENFORCEMENT

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Section Diesel Emission Inspection 30-Day Warning Notice
460.500 Diesel Emission Inspection Out-of-Service Order
460.510 Diesel Emission Inspection Enforcement
460.520

SUBPART F: WAIVER REQUIREMENTS, GRIEVANCE AND
REPLACEMENT PROCEDURES

Section Diesel Emission Inspection Waiver Requirements for Failing Inspection
460.600 and Reinspection
460.605 Diesel Emission Inspection Waiver Requirements for an Ungoverned
Vehicle
460.610 Grievance Procedures
460.620 Replacement of Diesel Emission Inspection Compliance Card

AUTHORITY: Implementing and authorized by Sections 13-109.1 and 13-114 of the
Illinois Vehicle Inspection Law [625 ILCS 5/13-109.1 and 13-114]. (See P.A.
91-254 and P.A. 91-865, effective July 1, 2000.)

SOURCE: Emergency rules adopted at 24 Ill. Reg. 9970, effective July 1, 2000,
for a maximum of 150 days; adopted at 24 Ill. Reg. 1841.22, effective

SUBPART A: GENERAL

Section 460.100 Purpose

This Part establishes the requirements and procedures to be followed by an
owner/operator of a diesel-powered vehicle registered within an affected area
in the State of Illinois that is subject to a diesel emission inspection in
accordance with Section 13-109.1 of the Illinois Vehicle Inspection Law (the
Law) [625 ILCS 5/13-109.1]. Additionally, inspection, compliance and
enforcement procedures are covered by this Part and establish the Diesel
Emission Inspection Program.

Section 460.110 Definitions

As used in this Part:

"Affected Areas" means the counties of Cook, DuPage, Lake, Kane,
McHenry, Will, Madison, St. Clair, and Monroe and the townships of Aux
Sable and Goose Lake in Grundy County and the township of Oswego in
Kendall County. [625 ILCS 5/13-100.1]

"Applicant" means any individual Owner, partners, authorized agent of
a corporation, or lessee applying for an Official Testing Station
Permit.

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"Authorized Diesel Emission Inspection Equipment" means those testing
and measuring devices approved and required by the Department's
Commercial Vehicle Safety Section for applicable Official Testing
Stations" diesel emission inspection procedures.

"Authorized Representative of the Department" means vehicle compliance
inspectors and administrative personnel employed by the Illinois
Department of Transportation.

"Certified Diesel Emission Tester (CDET)" means an individual who is
employed at an Official Testing Station and who has passed a written
exam and who has demonstrated proficiency by operating and calibrating
the authorized diesel emission inspection equipment and who has been
issued a certificate by the Department.

"Certified Safety Tester (CST)" means an individual who is employed at
an Official Testing Station and who has passed a written exam and who
has demonstrated proficiency in the operation of authorized safety
test equipment and who has been issued a certificate by the
Department.

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Commercial Vehicle Safety Section (CVSS)" means a section of the
Bureau of Safety Programs of the Division of Traffic Safety of the
Illinois Department of Transportation.

"Cutpoint Standards" means criteria established in the United States
Environmental Protection Agency document "Guidance to States on Smoke
Opacity Cutpoints to be used with the SAE J1667 In-Use Smoke Test
Procedure." (See Section 460.140 for cutpoint standards.)

"Department" means the Department of Transportation of the State of
Illinois, acting directly or through its authorized agents or
officers. [625 ILCS 5/13-100]

"Diesel Emission Inspection Certificate of Waiver for Failing
Inspection and Reinspection" means a certificate issued in accordance
with Section 460.600 of this Part to the owner/operator of a vehicle
that has failed a diesel emission inspection and reinspection but who
has complied with all applicable waiver requirements in accordance
with Section 460.600.

"Diesel Emission Inspection Certificate of Waiver for an Ungoverned
Vehicle" means a certificate issued in accordance with Section 460.605
of this Part to the owner/operator of a vehicle whose motor was
manufactured ungoverned but who has complied with all applicable
waiver requirements in accordance with Section 460.605.

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"Diesel Emission Inspection Compliance Card" means the document presented to the vehicle owner/operator if his/her vehicle passes a diesel emission inspection. The card is validated by the presence of the Validation Certificate that is attached to the card in the form of an adhesive sticker and is required to be present in the cab of the vehicle.

"Diesel Emission Inspection 30-Day Warning Notice" means the document presented to the vehicle owner/operator if the vehicle fails the diesel emission inspection. The vehicle's owner/operator is required to return to the Station within 30 days for a reinspection.

"Diesel Emission Inspection Equipment" means the equipment required to be used by the Certified Diesel Emission Tester to inspect a diesel-powered vehicle and to submit the results of the inspection to the Department. The equipment includes, but is not limited to, the Department-approved smoke opacimeter, a workstation (i.e., laptop computer), and printer tape.

"Diesel Emission Inspection Official Testing Stations" means those Stations located within the affected areas and required to participate in the Diesel Emission Inspection Program.

"Diesel Emission Inspection Supplies (Supplies)" means all items issued to an Official Testing Station by the Commercial Vehicle Safety Section in order to conduct a diesel emission inspection. Items include, but are not limited to, Diesel Emission Inspection Compliance Cards, Diesel Emission Inspection 30-Day Warning Notices, and Validation Certificates. All supplies remain the property of the Commercial Vehicle Safety Section.

"Diesel-Powered Vehicle" or "Diesel Vehicle" means a motor vehicle registered for a gross weight of more than 16,000 pounds, powered by an internal combustion, compression ignition, diesel fueled engine.

"Diesel Smoke" means particles, including aerosols, suspended in the exhaust stream of a diesel engine that absorb, reflect, or refract light.

"Director" means the Director of the Division of Traffic Safety for the Illinois Department of Transportation.

"Division" means the Division of Traffic Safety for the Illinois Department of Transportation.

"Effective Optical Path Length (L)" means the length of the smoke-obscured optical path between the smoke opacimeter light source and detector.

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"Emergency Vehicle" means vehicles of municipal departments or public service corporations that are designated or authorized as such by proper local authorities, including, but not limited to, police vehicles, vehicles of fire departments and ambulances.

"Emission Control Devices" means those components of a vehicle that were designed and are used to control vehicle exhaust and evaporative system emissions. For purposes of this Part, this term refers to components with which the vehicle was originally equipped or direct replacements.

"Gross Weight" means the weight of a vehicle whether operated singly or in combination without load plus weight of the load thereon. [625 ILCS 5/1-125]

"Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. [625 ILCS 5/1-124.5]

"Illinois Vehicle Inspection Law (the Law)" means 625 ILCS 5/Ch. 13.

"Intrastate Carrier of Passengers" means any person engaged in the transportation of passengers solely within Illinois.

"Intrastate Carrier of Property" means any person engaged in the transportation of property solely within Illinois.

"Interstate Carrier of Passengers" means any person engaged in the transportation of passengers between a place in a state and a place outside of such state or between two places in a state through another state or a place outside the United States.

"Manufacturer" (unless otherwise indicated at the point of use) means the person or organization whose name follows "MANUFACTURED BY" or "MFD BY" on the federal certification label.

"Model Year" means the year of manufacture of a vehicle based upon the annual production period of the vehicle as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture. [625 ILCS 5/1-144.05]

"Non-exempt Vehicle" means any vehicle subject to diesel emission inspections as required by this Part.

"Official Testing Station(s) (the Station)" means all contiguous real and personal property that houses the equipment and supplies relating

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to the diesel emission inspection of vehicles. Official Testing Stations are privately-owned businesses that are regulated by the Department. Official Testing Stations are classified as either public or private. Public Stations are open to the public. Private Stations are established by companies for the purpose of inspecting vehicles owned or operated by the company. Private Stations are not open to the public.

"Official Testing Station Permit (Permit)" means evidence issued by the Commercial Vehicle Safety Section granting the Owner named thereon the privilege of serving as an agent of the State of Illinois within the limitations set forth in Section 13-103 of the Law.

"Opacity (N)" means the percentage of light transmitted from a source that is prevented from reaching a light detector.

"Operated within the Affected Area" means any vehicle that is physically within the affected area at any time, whether stationary or in motion.

"Out-of-Service Order" means a temporary prohibition against driving a commercial motor vehicle. [625 ILCS 5/1-154.5]

"Owner" means any individual, partners, authorized agent of a corporation, lessee, or other person in whose name an Official Testing Station Permit has been issued. Such person(s) is responsible for the lawful operation of the Station's diesel emission inspection program.

"Owner/Operator" means the person who presents the diesel-powered vehicle at the Station for inspection, commonly referred to as the vehicle's driver.

"Part" means the regulations contained in this document that are located at 92 Ill. Adm. Code 460.

"Person" means every natural person, firm, copartnership, association or corporation. [625 ILCS 5/1-159]

"Rate or Charge" means the monetary charge (i.e., \$30) authorized by 625 ILCS 5/13-106 to any person offering a vehicle for a diesel emission inspection pursuant to 625 ILCS 5/13-109.1.

"Recognized Repair Technician" means a person professionally engaged in vehicle repair, employed by a company in operation whose purpose is vehicle repair, or possessing nationally recognized certification for emission related diagnosis and repair.

"Secretary" means the Secretary of the Illinois Department of

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Transportation.

"Smoke Density (K)" means a fundamental means of quantifying the ability of a smoke plume or smoke containing gas sample to obscure light.

"Smoke Opacimeter" means a type of smokemeter designed to measure the opacity of a plume or sample of smoke by means of a light extinction principle.

"Smokemeter Measurement Zone" means the effective length between the smokemeter light source and the light detector through which exhaust gases pass and interact with the smokemeter light beam.

"Snap-Acceleration Inspection" means the method used to test a diesel-powered vehicle to determine the quality of diesel exhaust fumes being released into the atmosphere.

"Station" means the Official Testing Station.

"Transmittance (T)" means the fraction of light transmitted from a source that reaches a light detector.

"Validation Certificate" means the sticker attached by the CDET to the Diesel Emission Inspection Compliance Card after the vehicle passes a diesel emission inspection.

Section 460.120 Applicability

a) Intrastate Carriers of Property or Passengers and Interstate Carriers of Passengers:

Effective July 1, 2000, each diesel-powered vehicle that is registered for a gross weight of more than 16,000 pounds, that is registered within the affected area (as defined in Section 460.110) and that is a 2 year or older model year shall be inspected annually for compliance with this Part. [625 ILCS 5/13-109.1]

b) Diesel-powered vehicles being operated on plates issued pursuant to Section 3-815(c) of the Code (Farm Truck Registration (i.e., license plate)) are exempt from the diesel emission inspection requirements set forth in this Part. [625 ILCS 5/13-109.3]

c) Units of local government within the affected areas, including home rule units, shall not require or conduct a diesel emission inspection program that does not meet or exceed the standards of the diesel emission inspection provided for in this Part. [625 ILCS 5/13-117]

Section 460.130 Address for Correspondence

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All business and correspondence pertaining to the diesel emission inspection program shall be addressed to:

Illinois Department of Transportation
Division of Traffic Safety
Commercial Vehicle Safety Section
3215 Executive Park Drive
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 557-6081

Section 460.140 Incorporation by Reference and Outpoint Standards

The following materials are incorporated by reference as of the edition date provided below. No later amendments to or editions of the following documents are incorporated. Copies of these materials are available for inspection at the Department's Commercial Vehicle Safety Section at the address provided in Section 460.130.

- a) Society of Automotive Engineers (SAE) Recommended Practice J1667 "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel-Powered Vehicles," revised February 1996.
The opacity cutpoints recommended by this guidance that will be used as a standard for this program shall not exceed: 40% opacity for vehicles model year 1991 and newer; 55% opacity for vehicles model year 1974 to 1990; Until December 31, 2002, 70% for vehicles model year 1973 and older; and After January 1, 2003, 55% for vehicles model year 1973 and older.
- b) United States Environmental Protection Agency (USEPA) "Guidance to States on Smoke Opacity Cutpoints to be used with the SAE J1667 In-Use Smoke Test Procedure," issued April 1997.

SUBPART B: OFFICIAL TESTING STATION REQUIREMENTS FOR DIESEL EMISSION INSPECTIONS

Section 460.200 Official Testing Station Requirements

- a) Diesel emission inspections shall be conducted at Official Testing Stations permitted by the Illinois Department of Transportation (the Department). The annual diesel emission inspection may be conducted in conjunction with the annual or semi-annual safety inspections.
- b) This Part establishes the requirements and procedures to be followed by an Official Testing Station in order to implement Section 13-109.1 of the Law [625 ILCS 5/13-109.1].
- c) The Department has purchased enough diesel emission inspection equipment to supply all public Official Testing Stations in the affected areas existing upon the enactment of P.A. 91-254 and P.A. 91-865. That equipment will be furnished by the Department at no charge to any public Official Testing Station at the time it is

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permitted to perform emission inspections as long as the Department still has equipment available. Priority for furnishing equipment will be based upon the date a Station is permitted to perform diesel emission inspections. When the Department's supply of equipment runs out, any Owner of a public Official Testing Station who opens a Station will be required to purchase the equipment necessary for compliance with this Part.

- d) Any private Official Testing Station permitted under Section 13-103 of the Law to conduct vehicle safety inspections may conduct diesel emission inspections on its own vehicles in accordance with this Part. A new category of Official Testing Station is established for vehicle owners who want to conduct only diesel emission inspections on their own vehicles. The new category of Station will be referred to as a Private Diesel Official Testing Station (PDOTS). Both categories of private Official Testing Stations will be required to purchase their own diesel emission inspection equipment.
- e) The Official Testing Station (the Station) or the property the Station is located on must be of sufficient size to accommodate a vehicle as large as a tractor trailer combination unit.
- f) Diesel emission inspections may be performed outside the Station on the property where the Station is located.
- g) Those Stations performing diesel emission inspections inside the Station must provide sufficient ventilation to prevent persons from becoming overcome by exhaust fumes.
- h) A working telephone must be located in the Station to electronically transmit diesel emission inspection data to the Department via the Internet.
- i) Public Stations located within the affected areas and permitted to conduct diesel emission inspections must perform a diesel emission inspection for each vehicle presented for such an inspection.
- j) Each Station permitted to perform diesel emission inspections must have at least one Certified Diesel Emission Tester with a current and valid certificate.
- k) No diesel emission inspection shall be conducted unless the Station's permit is valid and designates that the Station provides diesel emission inspections.
- l) All diesel emission inspections shall be conducted on the property identified on the Official Testing Station permit.

Section 460.210 Private Diesel Official Testing Stations

- a) Private Diesel Official Testing Stations (PDOTS) may be established by persons or municipalities or other governmental entities that own or lease at least 25 diesel-powered vehicles subject to diesel emission inspections.
- b) PDOTS are not open to the public.
- c) PDOTS shall notify the Department by telephone at least one working day prior to performing five or more diesel emission inspections in

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one week. An authorized representative of the Department may be present at the time of inspection.

- d) PDOTS shall provide, at their own expense, diesel emission inspection equipment approved by the Department.
- e) The Department shall provide to PDOTS diesel emission inspection supplies necessary to conduct diesel emission inspections. PDOTS must purchase Validation Certificates from the Department for one dollar each.
- f) PDOTS shall electronically transmit diesel emission inspection data to the Department via the Internet.
- g) PDOTS shall conduct all diesel emission inspections on the property of the facility to which the Official Testing Station permit is issued.
- h) PDOTS shall conduct all diesel emission inspections in accordance with this Part.

Section 460.220 Responsibilities of Official Testing Station Owner (Public and Private)

- a) The Owner shall require all Certified Diesel Emission Testers (CDET) to comply with this Part.
- b) The Owner of an Official Testing Station shall notify the CVSS in writing when he/she or his/her employees wish(es) to make application to become a CDET. The letter of request must include the Station's phone number and address as well as the applicant's:
 - 1) Full name;
 - 2) Date of birth;
 - 3) Driver's license number; and
 - 4) Photo which measures at least two inches by two inches but no more than three inches by three inches.
- c) The Owner is responsible for the training of employees on the equipment and inspection procedures before the employee is tested by an authorized representative of the Department to become a CDET.
- d) The Owner shall notify the CVSS as soon as he/she is aware that neither he/she nor any of his/her employees are eligible to conduct diesel emission inspections, e.g., when a CDET is no longer employed at the Station. Failure to have at least one employee who is certified to conduct diesel emission inspections automatically suspends the Official Testing Station's diesel emission inspection permit until such time as the Owner or an employee becomes certified to conduct diesel emission inspections.
- e) The Owner shall notify the CVSS as soon as he/she is aware that his/her Official Testing Station is not eligible to conduct diesel emission inspections, e.g., the Station is closed for vacation. If the Official Testing Station is not eligible to conduct diesel emission inspections for more than 30 days, an authorized representative of the Department must approve resumption of the diesel emission inspection program.
- f) The Owner is responsible for maintaining the equipment in proper

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calibration and for maintaining the Station in proper condition as required by 92 Ill. Adm. Code 451. After the diesel emission inspection equipment's manufacturer's warranty and maintenance program expires, the Owner is responsible for maintaining the diesel emission inspection equipment in proper working order.

It shall be the Owner's responsibility to cease conducting diesel emission inspections when any piece of that equipment malfunctions.

- 1) Equipment malfunctions and subsequent closure shall be reported to the CVSS as soon as the Owner is aware of the malfunction.
- 2) Diesel emission inspections shall not be resumed until repairs are completed and approval is secured from an authorized representative of the Department. An authorized representative of the Department will confirm that the diesel emission inspection equipment is working in accordance with the manufacturer's specifications.
- h) It shall be the Owner's responsibility to maintain a quantity of diesel emission inspection supplies to accommodate vehicles presented for original inspection or returned for reinspection. If a Station does not have a quantity of diesel emission inspection supplies to issue to a vehicle returning for a reinspection, the inspection fee shall be refunded to the vehicle owner/operator.
- i) The Owner shall be responsible for the proper security and handling of the diesel emission inspection supplies.
- j) It shall be the Owner's responsibility to immediately notify the CVSS of any change in diesel emission inspection equipment.
- k) It shall be the Owner's responsibility to provide funds to the Department to cover the cost of Validation Certificates to perform diesel emission inspections (i.e., one dollar per Certificate), either through transmittal of appropriate funds or through use of a previously established credit balance. These procedures are currently in operation according to 92 Ill. Adm. Code 451.140.
- l) Validation Certificate fees shall be paid to: TREASURER, STATE OF ILLINOIS, by the Station for each Certificate issued. The Station shall only charge the authorized fee when issuing a Certificate (i.e., one dollar). The authorized fee for the Validation Certificate is included in the rates or charges established in Section 460.400.
- m) If an Official Testing Station Permit is suspended or revoked pursuant to Section 460.240(p), performance of any and all diesel emission inspection activities shall be prohibited for the duration of the suspension or revocation. It shall be the Owner's responsibility to surrender the Station permit and diesel emission inspection equipment and supplies as requested by an authorized representative of the Department on the date the suspension begins. The Owner shall be responsible for making certain all employees honor the terms of the suspension or revocation.
- n) It shall be the Owner's responsibility to see that all diesel emission inspections are conducted in accordance with this Part.

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Section 460.230 Responsibilities of Certified Diesel Emission Tester

- a) Persons interested in becoming a Certified Diesel Emission Tester (CDET) must meet the following requirements:
 - 1) Be a least eighteen years of age; and
 - 2) Possess a valid driver's license.
- b) Every applicant must accomplish the following before certification as a CDET to conduct diesel emission inspections is awarded:
 - 1) Pass a written test based on this Part with a passing score of at least 70%.
 - 2) Demonstrate proficiency by properly operating and calibrating the diesel emission inspection equipment at the Station where employed.
- c) The Station Owner may request retesting of a CDET applicant who failed the initial examination.
 - 1) A person who failed any part of the initial examination shall wait a period of 15 days before reapplying.
 - 2) A person who fails a second time shall wait a period of 30 days before reapplying.
 - 3) After three failures within one 12 month period, a person is not eligible to take the examination for a period of one year from the date of the last failure.
- d) A CDET shall conduct a minimum of ten percent of the Station's diesel emission inspections during any calendar year or may be required to successfully pass the written and proficiency examinations to maintain certification. (See subsection (b) of this Section for examination standards.)
- e) If the Official Testing Station where a CDET is employed changes diesel emission inspection equipment, the CDET shall be required to demonstrate proficiency by operating and calibrating the new inspection equipment.
- f) If a CDET leaves the employ of one Official Testing Station and is subsequently hired by another, the latter employer shall request in writing to the Department a transfer of the CDET's certification.
 - 1) The CVSS may require the CDET to pass the written and proficiency examinations before the certificate is transferred. (See subsection (b) of this Section for examination standards.)
 - 2) Both tests shall be administered if the lapse in employment at Official Testing Stations exceeds 30 days.
- g) The CDET's certificate remains the property of the CVSS and shall be immediately returned to the CVSS or authorized personnel of the Department if the CDET ceases inspecting vehicles or ceases to be employed by the Official Testing Station; or if the certificate is suspended, canceled or revoked; or if the CDET fails to maintain his certification; or if the CDET's driver's license is expired, canceled, suspended or revoked.
- h) The diesel emission inspection privileges granted by the CDET's certificate shall be subject to cancellation, suspension or revocation

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- i) by the Department for any violation of this Part. (See 625 ILCS 5/13-108 and 92 Ill. Adm. Code 450 regarding administrative hearings.) If a CDET's certificate has been suspended for 90 days or more or canceled, the CVSS will require that the CDET pass the written and proficiency examinations prior to recertification.
- j) If an Official Testing Station is inoperative for a period of six months or more, all CDET certificates shall be canceled. Any former CDET shall be required to be reexamined before a certificate is issued.
- k) Failure of a CDET to pass either the proficiency or written portion of any retest shall automatically cancel his/her certification.
- l) Refusal of a CDET to submit to retesting shall automatically cancel his/her certification and his/her certificate shall be immediately surrendered to an authorized representative of the Department.
- m) No person shall perform a diesel emission inspection unless that person has been certified as a CDET by the CVSS and that person has been issued a valid certificate by the CVSS. The certificate shall be displayed at the Official Testing Station where the CDET is employed.
- n) The CDET shall perform the diesel emission inspection according to procedures established in this Part.
- o) The CDET shall have sole physical control of the vehicle being tested during the entire diesel emission inspection.
- p) The CDET shall be responsible for documenting all diesel emission inspection results in the manner prescribed in Section 460.330.
- q) The CDET who performed the original diesel emission inspection or reinspection shall affix the Validation Certificate to the Diesel Emission Inspection Compliance Card as prescribed in Section 460.330. The Validation Certificate shall be affixed only if the vehicle inspected equals or exceeds all of the requirements of this Part.
- r) The CDET shall not accept any gratuity from any person for or in connection with an official diesel emission inspection or for the issuance or giving of proof of a diesel emission inspection.

Section 460.240 Supervision of Official Testing Station and Enforcement of Department Policies

During both announced and unannounced visits, authorized representatives of the Department (as defined in Section 460.110) have the responsibility:

- a) To monitor Official Testing Stations and to enforce this Part.
- b) To review and approve applications for Official Testing Station permits and Certified Diesel Emission Tester (CDET) certificates.
- c) To conduct written and proficiency tests for persons applying to become a CDET. (See Section 460.230 for testing standards and procedures.) To conduct tests for persons who have been requested by the Department to be retested, e.g., not performing a minimum of 10% of diesel emission inspections annually.
- d) To inspect building, equipment and adjacent roadway or alleys for compliance with Official Testing Station requirements or any

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conditions that affect the entrance and exit of vehicles. (See 92 Ill. Adm. Code 451.110(b) for Official Testing Station classification requirements.)

e) To inspect diesel emission inspection equipment for cleanliness, operability and accuracy.

f) To require the Owner to cease performing diesel emission inspections when diesel emission inspection equipment is totally or partially inoperative or inaccurate.

1) All diesel emission inspection supplies at the Official Testing Station will be removed and held by an authorized representative of the Department or the Commercial Vehicle Safety Section until the diesel emission inspection equipment has been cleaned, adjusted or repaired so as to render accurate results.

2) An authorized representative of the Department will approve the condition of the equipment (i.e., operating efficiently and effectively) before the Station may reopen for diesel emission inspections.

g) To instruct Official Testing Station Owners and CDET in the proper method of completing forms and reports used in diesel emission inspection procedures.

h) To inspect forms required to be posted, completed and filed for cleanliness, legibility, and accuracy.

i) To determine whether diesel emission inspections are performed in accordance with this Part.

j) To have access to all records and supplies that are the property of and furnished by the Department.

k) To inspect the Station's copy of this Part for completeness and availability.

l) To inspect printer tapes generated during diesel emission inspections for accuracy, completeness, legibility and proper filing order.

m) To inspect Validation Certificates at the Station for numerical sequence and storage security. To check the Station Owner's method of accountability for all diesel emission inspection supplies issued to the Station.

n) To investigate all complaints lodged against an Official Testing Station or a CDET. [625 ILCS 5/13-107]

o) To monitor Official Testing Station procedures used in conducting diesel emission inspections through the use of both official marked and unmarked vehicles. Monitoring conducted in marked State vehicles includes unannounced routine visits by area inspectors to check records for proper filing and completion and diesel emission inspection equipment for proper calibration and operation, and to administer tests to prospective CDETs or those CDETs required to be retested as authorized by Section 13-105 of the Law [625 ILCS 5/13-105]. Monitoring conducted in unmarked vehicles includes unannounced investigations by Department personnel to determine if Official Testing Stations are performing diesel emission inspections in accordance with this Part as authorized by Section 13-107 of the

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Law [625 ILCS 5/13-107].

p) To ensure compliance with goals for this program by issuing warning tickets or citations/complaints to Official Testing Station permit holders and their employees for alleged infractions of 625 ILCS 5/Ch. 13 and this Part. The charges as outlined in the citation(s) will be adjudicated at an administrative hearing (see 625 ILCS 5/13-108 and 92 Ill. Adm. Code 450). The Secretary will determine whether the Station has committed a violation after careful evaluation of the evidence presented at such hearing. If a determination of a violation is made, the Secretary will assess penalties for violations alleged on the citation/complaints. (See 92 Ill. Adm. Code 451.70(j) for penalty guidelines.)

q) To require that the Owner cease diesel emission inspections and reinspections upon suspension or revocation of diesel emission inspection testing privileges, as outlined in subsection (p) of this Section. Permit(s) and diesel emission inspection supplies will be removed from the facility for the period of suspension or permanently upon revocation.

Section 460.250 Diesel Emission Inspection Official Testing Station Equipment, Supplies and Forms

a) All required diesel emission inspection equipment furnished to public Official Testing Stations by the Department will remain the property of the Department.

b) The Owner of a public Official Testing Station furnished with diesel emission inspection equipment by the Department shall sign a "Diesel Emission Inspection Equipment Bailment Agreement" that includes, but is not limited to, a statement that the Station is responsible for damage or loss of the equipment due to theft, vandalism, fire or other occurrences, including negligent operation of the equipment or failure to perform routine maintenance on the equipment. The Station will also pay for insurance, if any, for the equipment. The Bailment Agreement will also serve as a receipt for the equipment when it is delivered to the Station by an authorized representative of the Department.

c) All required forms and supplies will remain the property of the Department.

d) All forms, supplies and completed printer tapes (see Section 460.330(e)) shall be kept in a secure place within the Official Testing Station.

e) Diesel emission inspection supplies, as defined in Section 460.110, shall be available for inspection by an authorized representative of the Department any time during the hours listed in 92 Ill. Adm. Code 451.70(1)(1)(B).

f) Validation Certificates, as defined in Section 460.110, shall be stored in a locked safe or other locked place within the Station.

g) Upon request by the Department, all diesel emission inspection

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equipment and supplies, as defined in Section 460.110, furnished by the Department, will be surrendered immediately to an authorized representative of the Department when the Station is either temporarily or permanently closed.

- h) It shall be the Owner's responsibility to maintain a sufficient amount of supplies, as defined in Section 460.110, needed in the operation of the diesel emission inspection program. These supplies may be obtained from the CVSS by submitting the diesel emission inspection requisition form. It shall be the Owner's responsibility to make sure his/her employees utilize the proper supplies.

SUBPART C: PROCEDURES FOR PERFORMING THE SNAP-ACCELERATION INSPECTION

Section 460.300 Vehicle Preparation

AGENCY NOTE: The procedure for a snap-acceleration inspection is established in accordance with SAE J1667 and consists of Sections 460.300 through 460.330. Prior to conducting the snap-acceleration test, the following procedures must be completed by the Certified Diesel Emission Tester (CDET):

- a) Set parking brake.
- b) Chock the wheels.
- c) Manual transmissions shall be placed in neutral. Automatic transmissions shall be placed in park, if available, or neutral if park is not available.
- d) Deactivate any device that may alter normal acceleration, i.e. air-conditioning or engine brake.
- e) Slowly accelerate the vehicle toward its maximum governed speed. Note any audible or visual indications that the engine is not mechanically sound. If there are no indications of problems, allow the engine to accelerate to a point where it becomes apparent that the governor is functioning properly. If it becomes apparent that the governor is not functioning properly, release the accelerator and stop the inspection. If the vehicle's engine is governed and not functioning properly, the governor must be adjusted or repaired in accordance with the vehicle's manufacturer specifications before the snap-acceleration inspection is performed. If the vehicle was manufactured without a governor, the procedure to obtain a Diesel Emission Inspection Certificate of Waiver for an Ungoverned Vehicle must be initiated (see Section 460.605).
- f) Inspect the vehicle's exhaust system for leaks. If exhaust leaks are found, stop the inspection until all exhaust leaks have been repaired.

Section 460.310 Equipment Set-Up

- a) Diesel emission inspection Official Testing Stations must be equipped with diesel emission inspection equipment approved by the Department. After taking open competitive bids, the Department has approved the Smoke Check 1667 manufactured by Red Mountain Engineering. The

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Department will only approve other equipment that is capable of performing the snap-acceleration inspection as described in Section 460.320, of reporting the inspection results as described in Section 460.330, and of interfacing with the Department's electronic information processing system.

- b) The following procedures coincide with prompts that are displayed on the Smoke Check 1667, manufactured by Red Mountain Engineering, Inc:
- 1) The user of the Smoke Check 1667 shall enter data as prompted.
 - 2) The following is a summary of those prompts:

- A) Enter 1 for Test Menu.
- B) Enter 1 for Enter User Data.
- C) Enter the Vehicle Identification Number (VIN) of the vehicle being tested.
- D) Enter year and make of vehicle.
- E) Enter year of engine.
 - i) Must be 4 digits.
 - ii) Engine year will normally be found on a tag or label located on the engine.
 - iii) If engine year is unknown, enter year of vehicle.
- F) Enter vehicle mileage as shown on the odometer.
- G) Enter engine manufacturer.
 - i) Examples include: International, Caterpillar, Cummins, Ford, G.M.C., Deere, etc.
 - ii) If engine manufacturer is unknown, enter make of vehicle.
- H) Enter engine horsepower or stack size.
 - i) Should be located on a tag or label on the engine.
 - ii) If engine horsepower is unknown, press "ENTER" and proceed to next step.
- I) Enter the diameter of the stack or tailpipe discharge end in inches. (If horsepower is entered, this prompt will not appear.)
- J) Enter diesel emission inspector's name.
 - i) Enter last name only.
 - ii) When two or more CDETs are employed who have the same last name, enter both the first and last name.
- K) Enter "2" to Begin Testing.
- L) Enter "1" for OK. (If visual inspection reveals a problem as stated in Section 460.300, DO NOT PROCEED WITH THE INSPECTION. The vehicle is rejected.)
- M) Enter "Y" to "Perform Cleanout Snaps."
- N) Enter "Y" to "Is the Sensor Out Of The Stack?" (Sensor should not yet be in the stack or tailpipe.)
- O) Smokemeter will now self zero.
- P) Place sensor in the stack or tailpipe.
- Q) Press any key.
- R) Perform the three cleanout snaps as prompted by the smokemeter.

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- i) Press F4 to complete each of the three cleanout snaps.
- ii) "Wait" will appear between snaps 1 and 2, then 2 and 3. Do not continue until "Wait" disappears.
- S) Perform the three official opacity tests as prompted.
 - i) Push F4 to complete each of the three official snaps.
 - ii) "Wait" will appear between snaps 1 and 2, then 2 and 3. Do not continue until "Wait" disappears.
- T) Remove the sensor from the stack or tailpipe. Press any key to continue.
- U) Smokemeter will self zero.
- V) Smokemeter will indicate that the post-test zero check passed. If "Test is Valid" is displayed, press any key to continue.
- W) When "Test is Valid" is displayed, press F5 to print results.
 - i) Tests will register valid when minimum cutpoint standards are met.
 - ii) Test results must be within 5% to be valid.
- X) Enter "y" to save data.
 - i) Smokemeter will store up to 100 tests.
 - ii) Tests will periodically be downloaded into a work station.
- Y) Enter "y" to Print Test.
- Z) Enter "N" to Print Test Again, unless a second copy of the printed test results is desired.
- AA) If test was valid, enter "N" to re-test same vehicle.
 - i) If test was invalid, press "y" and start over at subsection (b)(2)(M) above.
 - ii) All information previously entered will be retained except engine year and horsepower or stack. These must be reentered.

AGENCY NOTE: When the Department approves other diesel emission inspection equipment, this Part will be amended to include procedures that will coincide with prompts for that equipment.

Section 460.320 Snap-Acceleration Inspection Procedures

With the vehicle prepared as described in Section 460.300 and the equipment set up as described in Section 460.310, the snap-acceleration inspection shall be executed as follows:

- a) With the engine at normal operating temperature and at low idle speed, the CDET shall move the accelerator to the fully opened position as quickly as possible.
- b) The CDET shall hold the accelerator in the fully opened position until the engine reaches its maximum governed speed, plus an additional 1 to 4 seconds, or as prompted by the display on the smoke opacimeter.
- c) After completing the snap-acceleration of the engine operating at maximum governed speed for 1 to 4 seconds, the CDET shall release the

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- accelerator and allow the engine to return to low idle speed.
- d) Allow the engine to remain at low idle speed for 5 to 45 seconds or as prompted by the display on the smoke opacimeter.
- e) Repeat steps (a) through (d) two additional times, for a total of three snap-acceleration cycles.
- f) These three snap-accelerations are preliminary cycles that allow CDETs to become familiar with the engine's acceleration and also remove loose soot from the vehicle exhaust system. The three preliminary cycles can also be used to check for proper operation of the smoke opacimeter.
- g) Within 2 minutes after the preliminary snap-acceleration cycles or as prompted by the smoke opacimeter, the CDET shall execute three snap-accelerations in the same manner as described in subsections (a) through (d) of this Section for the preliminary acceleration cycles.
- h) The percentage of opacity for the three snap-accelerations must be within 5% of each other for the inspection to be valid.
- i) If the smoke opacimeter display announces a valid inspection, document the inspection results as instructed in Section 460.330, Reporting of Inspection Results.
- j) If the test was invalid due to readings that varied by more than 5% or any other condition that would render the inspection invalid, repeat the entire inspection as outlined in Subpart C of this Part.

Section 460.330 Reporting of Inspection Results

- a) The owner/operator of each vehicle presented for a diesel emission inspection shall provide a registration card, title or bill of sale that displays the vehicle identification number (VIN) and the owner/operator's name and address.
- b) The CDET shall compare the VIN displayed on the registration card, title or bill of sale to the actual VIN on the vehicle being presented for a diesel emission inspection to determine that the document provided accurately identifies the vehicle presented.
- c) The following procedures apply only to vehicles that pass the diesel emission inspection by meeting minimum cutpoint standards:
 - 1) The following information shall be written on the back of the Diesel Emission Inspection Compliance Card (DEICC) in the space provided:
 - A) Date of inspection
 - B) Official Testing Station number
 - C) Vehicle Identification Number (VIN)
 - D) License plate number
 - i) If license plate is applied for, write: "applied for".
 - ii) If no license plate or registration has been applied for, write: "none".
 - E) Write the average opacity reading indicated on the printer tape generated during the inspection.

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- F) The CDET who performs the diesel emission inspection shall sign the DEICC.
- G) A Validation Certificate shall be attached in the space provided. The DEICC is not valid as proof of compliance unless the Validation Certificate is attached.
- 2) The DEICC shall be presented to the vehicle owner/operator with the explanation that the DEICC must be kept in the vehicle as proof of diesel emission inspection compliance.
- d) The following procedures apply only to vehicles that fail to meet minimum outpoint standards.
- 1) The following information shall be written on the back of the 30-Day Warning Notice Card in the space provided:
 - A) Date of inspection
 - B) Official Testing Station number
 - C) Vehicle Identification Number (VIN)
 - D) License plate number
 - i) If license plate is applied for, write: "applied for."
 - ii) If no license plate or registration has been applied for, write: "none."
- E) Write the average opacity reading indicated on the printer tape generated during the inspection.
- F) The CDET that performs the diesel emission inspection shall sign the 30-Day Warning Notice Card.
- 2) The 30-Day Warning Notice Card shall be presented to the vehicle owner/operator with the explanation that the vehicle has failed to meet minimum opacity standards. The vehicle must be repaired and pass a diesel emission reinspection at the same Official Testing Station within 30 days after receipt of the 30-Day Warning Notice Card or the Department will render the vehicle out-of-service.
- e) The following procedures are the responsibility of the Owner and apply to all vehicles for which a diesel emission inspection was completed.
- 1) The printer tapes generated during the diesel emission inspection shall be bundled together at the end of each day.
 - 2) The top printer tape in each bundle shall be clearly marked in ink with the appropriate date.
 - 3) Each daily printer tape bundle shall be placed in a file marked with each appropriate month.
 - 4) Diesel emission inspection printer tapes shall be retained at the Official Testing Station in monthly files for a period of two years, after which they may be destroyed.
 - 5) Diesel emission inspection printer tapes remain the property of the Department and must be accessible upon demand.
 - 6) Diesel emission inspection results will be transmitted to the Department via the Internet.

SUBPART D: LEVEL OF RATES AND CHARGES

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Section 460.400 Rates and Charges

- a) Any and all rates or charges made by the Owner of an Official Testing Station for performing a diesel emission inspection shall be approved by the Department and shall be just and reasonable.
- b) A rate or charge is "just and reasonable" if it is the same, or nearly the same, as the prevailing rate or charge for the same or similar test made in the community where the Official Testing Station is located. [625 ILCS 5/13-106]
- c) The following rates or charges for an annual diesel emission inspection or reinspection have been determined by the Department to be prima facie just and reasonable rates or charges. These rates were established by the Department based on the shop rate, journeyman mechanic's hourly wage and the CDET hourly wage at Official Testing Stations in the affected areas.
 - 1) Annual Diesel Emission Inspection - Initial Inspection: \$30
 - 2) Annual Diesel Emission Inspection - Reinspection(s): \$25
- d) No Owner of a Station shall charge any rate or charge or schedule of rates or charges unless that charge has been made in accordance with this Part.

Section 460.410 Rate Change Procedure

- a) The rates established by the Department in Section 460.400 are deemed to be filed by the Station with the Department, and may be changed upon application of the Owner of a Station or complaint of any person. An application for a change of rate will be approved or disapproved within five business days by the Commercial Vehicle Safety Section, and the Owner will be notified in writing within 10 days after the application. If an application for a rate is approved, the rate shall become effective upon posting at the Station by the Commercial Vehicle Safety Section. If an application for a proposed rate is disapproved by the Department, an applicant may appeal the disapproval to the Director under 92 Ill. Adm. Code 454.260. The procedure in Part 454 will be used to determine if a disapproved rate or a rate contested by any person is just and reasonable. For purposes of this procedure, any reference to "rate" or "charge" in Part 454 is deemed to refer to a "rate" or "charge" for a diesel emission test at a Station in an affected area. As the Department has determined a just and reasonable initial rate in Section 460.400, the procedure in 92 Ill. Adm. Code 454.210 for initial rates will not be followed.
- b) The following criteria will be used to evaluate rates to determine if a rate is just and reasonable:
 - 1) The Official Testing Station's labor (or shop) rate in comparison to those in the community of the Station;
 - 2) Its journeyman mechanic's hourly wages in comparison to those in the community of the Station; and
 - 3) CDET hourly rates at the Station in comparison to those in the

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community of the Station.

SUBPART E: WARNING NOTICES, OUT-OF-SERVICE ORDER AND ENFORCEMENT

Section 460.500 Diesel Emission Inspection 30-Day Warning Notice

- a) *If an annual diesel emission inspection reveals that a vehicle is not in compliance with this Part, the Owner of the Station or the CDET shall issue a warning notice requiring correction of the violation.* [625 ILCS 5/13-109.1] The warning notice shall be in the form of a Diesel Emission Inspection 30-Day Warning Notice, as defined in Section 460.110.
- b) *Corrections shall be made and the vehicle submitted to an emission reinspection at the same Station that previously issued the warning notice within 30 days from the issuance of the warning notice requiring correction of the violation.* [625 ILCS 5/13-109.1] Examples of basic corrections that will improve diesel emission smoke include, but are not limited to, the following:
 - 1) Replace air filter element, if needed;
 - 2) Check and adjust emission control equipment;
 - 3) Check oil level and ensure correct type recommended for your engine;
 - 4) Tune up, adjust timing, set valve clearance, rack travel, etc.;
 - 5) Ensure correct operation of cooling system;
 - 6) Repair restricted/dented exhaust system; and/or
 - 7) Ensure good grade of fuel.

Section 460.510 Diesel Emission Inspection Out-of-Service Order

- a) *If a vehicle has not passed a diesel emission reinspection within 30 days from the receipt of a 30-Day Warning Notice or has not obtained a waiver as prescribed in Section 460.600, the Department shall issue an Out-of-Service Order via certified mail to the person(s) or company owning or operating the vehicle in violation of this Part.*
- b) *The Out-of-Service Order contains information identifying the owner/operator of the vehicle, information identifying the specific vehicle being placed out-of-service, the reason for the Order, the punishable fine of \$1000 for operating a vehicle that has been declared out-of-service, and a requirement that the vehicle pass a diesel emission reinspection before it may be returned to service.* The vehicle will remain out-of-service until the vehicle passes a diesel emission reinspection or the vehicle's owner/operator obtains a waiver as prescribed in Section 460.600.

Section 460.520 Diesel Emission Inspection Enforcement

- a) *Operating a vehicle in violation of an Out-of-Service Order is a petty*

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offense punishable by a \$1,000 fine.

- b) *No emergency vehicle may be placed out-of-service.*
- c) *The Secretary of State, Department of State Police and other law enforcement officers shall enforce this Section.* [625 ILCS 5/13-109.1]

SUBPART F: WAIVER REQUIREMENTS, GRIEVANCE AND REPLACEMENT PROCEDURES

Section 460.600 Diesel Emission Inspection Waiver Requirements for Failing Inspection and Reinspection

- a) A Diesel Emission Inspection Certificate of Waiver for Failing Inspection and Reinspection shall be issued by the Department for a diesel-powered vehicle to its owner/operator who demonstrates that the vehicle meets the applicable waiver requirements of subsection (b) of this Section.
- b) A vehicle subject to inspection under this Part that has failed a diesel emission inspection and reinspection shall be eligible for a waiver from meeting the diesel emission requirements of this Part upon proof to the Department of compliance with all of the following:
 - 1) After failing an initial inspection and reinspection, the vehicle has failed to achieve compliance with the applicable vehicle diesel emission inspection standards set forth in this Part.
 - 2) *A minimum expenditure of \$3,000 in diesel emission related repairs, exclusive of tampering-related repairs, has been made.* [625 ILCS 5/13-109.1]
 - 3) The vehicle has received all repairs and adjustments for which it is eligible under any diesel emission performance warranty provisions.
 - 4) The vehicle owner/operator certifies to the Department that the diesel emission control devices are present and appear to be properly connected and operating.
 - 5) Repairs are conducted by a recognized repair technician, as defined in Section 460.110.
 - 6) Evidence of repair is presented to the Department consisting of signed and dated receipts identifying the vehicle and describing the work performed and amount charged for eligible diesel emission-related repairs.
- c) If the Department determines that an applicant for a waiver has not complied with all applicable waiver criteria set forth in subsection (b) of this Section, the waiver request will be denied. The Department will provide to the applicant a written statement via U.S. mail containing the reason for the denial.
- d) If the Department determines that an applicant for a waiver has complied with all waiver criteria set forth in subsection (b) of this Section, the waiver shall be issued. The Department shall provide the applicant a Diesel Emission Inspection Certificate of Waiver for

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Failing Inspection and Reinspection via U.S. mail containing a description of the vehicle, including the manufacturer's vehicle identification number, and the issuance date of the waiver. The Certificate of Waiver must be kept in the vehicle as proof of diesel emission inspection compliance. Certificates of Waiver do not expire.

Section 460.605 Diesel Emission Inspection Waiver Requirements for an Ungoverned Vehicle

- a) The owner/operator of a diesel-powered vehicle subject to this Part that was manufactured without a device to govern engine revolutions per minute (RPM) shall be eligible for a Diesel Emission Inspection Certificate of Waiver for an Ungoverned Vehicle. The diesel-powered vehicle will be exempt from meeting the diesel emission requirements of 625 ILCS 5/13-109.1 upon receipt by the Department of a letter from the vehicle manufacturer or dealer affirming that the vehicle was manufactured ungoverned. The letter must be on paper bearing the letterhead of the manufacturer or dealer of the vehicle in question.
- b) If the Department determines that an applicant for a waiver has not complied with the waiver criterion set forth in subsection (a) of this Section, the waiver request will be denied. The Department will provide to the applicant a written statement via U.S. mail containing the reason for the denial.
- c) If the Department determines that an applicant for a waiver has complied with the waiver criterion set forth in subsection (a) of this Section, the waiver shall be issued. The Department shall provide the applicant a Diesel Emission Inspection Certificate of Waiver for an Ungoverned Vehicle via U.S. mail containing a description of the vehicle, including the manufacturer's vehicle identification number and the issuance date of the waiver. The Certificate of Waiver must be kept in the vehicle as proof of diesel emission inspection compliance. Certificates of Waiver do not expire.

Section 460.610 Grievance Procedures

- a) Any person aggrieved by a decision regarding the failure of a diesel emission reinspection at a Station or the denial of a waiver from the Department may petition the Department, which will investigate the matter.
- b) Grievances shall be filed in writing with the Department no more than 30 days after the decision made by the Department. The grievance shall contain the reason for the grievance; general information about the vehicle (i.e., make, model, and year); and a contact person's name, address and telephone number.
- c) The Secretary or the Secretary's designee will appoint a Department employee to investigate every grievance submitted to the Department in accordance with this part. The vehicle is declared out-of-service during the duration of the investigation.

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- d) The Department's investigation will be concluded within 45 days after the receipt of the grievance by the Department.
- e) Within the 45-day investigation period, the Department will issue written notification to the petitioner and the Official Testing Station, if applicable, indicating the Department's determination as to the correctness or incorrectness of the decision that precipitated the grievance.
- f) The Department's written notification will include a statement of the facts relied upon and technical issues decided by the Department in making its determination. The Department's determination is considered administratively final.

Section 460.620 Replacement of Diesel Emission Inspection Compliance Card

- a) A replacement Diesel Emission Inspection Compliance Card may be obtained by submitting a written request for a replacement card along with a check or money order in the amount of \$5 made payable to: Treasurer, State of Illinois. No cash will be accepted.
- b) The written request must contain general information about the vehicle (i.e., VIN, make, model and year), as well as a contact person's name, address, and telephone number. The replacement Diesel Emission Inspection Compliance Card will expire on the same date the original card was scheduled to expire.
- c) All replacement requests shall be submitted to:

Illinois Department of Transportation
Diesel Emission Inspections
P.O. Box 19212
Springfield, Illinois 62794-9212

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NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers:
Appendix A, Table L Peremptory Action:
Amend
- 4) Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)]
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 6) Effective Date: December 1, 2000
- 7) A Complete Description of the Subjects and Issues Involved: In Section 310.Appendix A, Table L RC-008 (Boilermakers), the monthly salary range for the Boiler Safety Specialist is being increased from \$4,036.80 - \$5,345.28 to \$4,176.00 - \$5,555.82, effective September 1, 2000.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed in Agency's Principal Office: December 1, 2000
- 10) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 11) Is this Rule in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes

- 12) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
310.280	Amend	24 Ill. Reg. 5802
310.280	Amend	24 Ill. Reg. 7574
310.100	Amend	24 Ill. Reg. 10030
310.110	Amend	24 Ill. Reg. 10030
310.130	Amend	24 Ill. Reg. 10030
310.290	Amend	24 Ill. Reg. 10030
310.490	Amend	24 Ill. Reg. 10030
310.530	Amend	24 Ill. Reg. 10030
310.540	Amend	24 Ill. Reg. 10030
310.Appendix B	Amend	24 Ill. Reg. 10030
310.Appendix C	Amend	24 Ill. Reg. 10030
310.Appendix D	Amend	24 Ill. Reg. 10030
310.Appendix E	Amend	24 Ill. Reg. 10030

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- 310.280 Amend 24 Ill. Reg. 10030
- 310.280 Amend 24 Ill. Reg. 10030
- 310.Appendix A Amend 24 Ill. Reg. 16151
- Table AB
- 310.290 Amend 24 Ill. Reg. 17384
- 13) Statement of Statewide Objectives: This amendment to the Pay Plan pertains only to State employees subject to the Personnel Code and does not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 14) The name, address and telephone number of the person to whom information and questions concerning this peremptory rule shall be directed to:
Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
217/782-5601

The full text of the Peremptory Amendments begins on the next page:

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NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310

PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2000
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 2000
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

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TABLE X	RC-063	Professional Employees, AFSCME)
TABLE Y	RC-063	Educators, AFSCME)
TABLE Z	RC-063	(Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2000	
APPENDIX C	Medical Administrator Rates for Fiscal Year 2000	
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2000	
APPENDIX E	Teaching Salary Schedule (Repealed)	
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)	
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000	

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 12199, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

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Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 1570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; emergency amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18443, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18443, effective December 1, 2000.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE L RC-008 (Boilermakers)

Effective: September 1, 2000 1999

Minimum Salary	Maximum Salary
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Boiler Safety Specialist	4,176.004,036-00	5,555.8257345-20
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(Source: Amended by Peremptory rulemaking at 24 Ill. Reg. 18444, effective December 1, 2000)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

- 1) Heading of the Part: Licensure of Direct Child Welfare Services Employees and Supervisors

- 2) Code Citation: 89 Ill. Adm. Code 412

- 3) Section Numbers:
- | | |
|---------|---------|
| 412.10 | Action: |
| 412.20 | Modify |
| 412.30 | Modify |
| 412.30 | Modify |
| 412.40 | Modify |
| 412.50 | Modify |
| 412.60 | Modify |
| 412.70 | Modify |
| 412.80 | Modify |
| 412.90 | Modify |
| 412.100 | Modify |

- 4) Date Notice of Proposed Rules Published in the Register: March 3, 2000, 24 Ill. Reg. 3464

- 5) Date JC&R Statement Published in the Register October 6, 2000, 24 Ill. Reg. 14801

- 6) Summary of Action Taken by the Agency: The Joint Committee objected to the Department's lack of specific statutory authority delegating the decision-making authority regarding licensure action to the Direct Child Welfare Services Employee License Board (Board). The Department agrees to seek specific statutory authority in the upcoming session of the General Assembly. JC&R additionally asked that the Department insert language authorizing the Board to make recommendations to the Director regarding licensure decisions until the Department has specific statutory authority for Board actions. The Department will make this change prior to adoption of these rules.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Narrative and Planning Policies

- 2) Code Citation: 77 Ill. Adm. Code 1100

- 3) Section Number: 1100.700
Proposed Action: Amendment

- 4) Date Notice of Proposed Amendments Published in the Illinois Register: 24 Ill. Reg. 8456; June 23, 2000

- 5) Reason for Withdrawal: Considerable testimony was presented to the State Board at the public hearing held on July 12, 2000. Because of the testimony, the State Board decided that modifications to the proposal were needed. These changes will be substantive and the State Board determined that the current proposal should be withdrawn and a revised proposal for Part 1100 be presented. Once the new proposal is published in the *Illinois Register*, another hearing will be held to give the public an opportunity to comment.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) Section Number:
1110.40 Proposed Action:
1110.2130 Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: 24 Ill. Reg. 8462; June 23, 2000
- 5) Reason for Withdrawal: Considerable testimony was presented to the State Board at the public hearing held on July 12, 2000. Because of the testimony, the State Board decided that modifications to the proposal were needed. These changes will be substantive and the State Board determined that the current proposal should be withdrawn and a revised proposal for Part 1110 be presented. Once the new proposal is published in the *Illinois Register*, another hearing will be held to give the public an opportunity to comment.

DEPARTMENT OF TRANSPORTATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Diesel Emission Inspection Program
- 2) Code Citation: 92 Ill. Adm. Code 460
- 3) Section Numbers:

460.100	Action:
460.110	Refusal
460.120	Refusal
460.130	Refusal
460.140	Refusal
460.200	Refusal
460.210	Refusal
460.220	Refusal
460.230	Refusal
460.240	Refusal
460.250	Refusal
460.300	Refusal
460.310	Refusal
460.320	Refusal
460.330	Refusal
460.400	Refusal
460.410	Refusal
460.500	Refusal
460.510	Refusal
460.520	Refusal
460.600	Refusal
460.605	Refusal
460.610	Refusal
460.620	Refusal

- 4) Date Notice of Proposed Rules Published in Register: July 14, 2000, 24 Ill. Reg. 10112
- 5) Date JCAR Statement of Objection Published in the Register: October 6, 2000, 24 Ill. Reg. 14810
- 6) Summary of Action Taken by the Agency:

Objection

The Joint Committee objected to 92 Ill. Adm. Code 460 because the Department, in JCAR's opinion, has shown insufficient reasons for not allowing use of contractual mobile private testing stations in the diesel emission testing program.

Response

DEPARTMENT OF TRANSPORTATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

The Department does not have statutory authority to allow mobile diesel emission testing. Chapter 13 of the Illinois Vehicle Code [625 ILCS 5/Ch. 13] only authorizes the Department to issue permits to public and private garages and vehicle service stations to perform testing and only authorizes those permitted entities to charge a fee for testing. In Attorney General Opinion 00-012, the Attorney General has given his opinion that public agencies may collect fees only as authorized by law. As diesel emission testing is being performed by permitted facilities on behalf of the Department, the Department may only permit those entities to charge a fee that it is authorized by law to allow to do so. As a mobile diesel emission testing service is neither a vehicle service station nor a public or private garage, it is not an entity that the statute allows the Department to issue a permit to or to charge a fee.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYFILING PROHIBITION

DEPARTMENT OF FINANCIAL INSTITUTIONS

Heading of the Part: Consumer Installment Loan ActCode Citation: 38 Ill Adm Code 110

Section Numbers: 110.300 110.310 110.320 110.330 110.340
110.350 110.360 110.370 110.380 110.390
110.400 110.410

Date Originally Published in the Illinois Register: 8/11/00
24 Ill Reg 11717

At its meeting on 11/29/00, the Joint Committee on Administrative Rules voted to prohibit the filing of the above proposed rulemaking with the Secretary of State. The Committee found that the adoption of these rules would constitute a serious threat to the public interest, safety or welfare. The specific reason for the prohibition is as follows:

While it includes many provisions that will meet the statutory requirement that these rules protect consumers, public commentators have argued that some of the provisions of this rulemaking will pose an unreasonable economic burden for small lenders, potentially resulting in the diminished availability of needed financial resources for consumers with limited options. This filing prohibition gives the agency an opportunity to revisit those provisions and consider less onerous alternatives.

The proposed rule may not be filed with the Secretary of State or enforced by the Department of Financial Institutions for any reason for 180 days following receipt of this certification and statement by the Secretary of State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 27, 2000 through December 4, 2000 and have been scheduled for review by the Committee at its December 12, 2000 meeting in Chicago or its January 9, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/10/01	Department of Revenue, Cigarette Tax Act (86 Ill Adm Code 440)	9/22/00 24 Ill Reg 14189	12/12/00
1/10/01	Department of Revenue, Cigarette Use Tax Act (86 Ill Adm Code 450)	9/22/00 24 Ill Reg 14193	12/12/00
1/11/01	Department of Human Services, Food Stamps (89 Ill Adm Code 121)	9/22/00 24 Ill Reg 14126	12/12/00
1/11/01	Illinois Racing Board, Entries, Subscriptions, and Declarations (11 Ill Adm Code 1413)	10/13/00 24 Ill Reg 15006	12/12/00
1/11/01	Department of Revenue, Board of Appeals (86 Ill Adm Code 210)	10/6/00 24 Ill Reg 14619	12/12/00
1/11/01	Secretary of State, Regulations Under the Illinois Business Brokers Act of 1995 (14 Ill Adm Code 140)	10/6/00 24 Ill Reg 14621	12/12/00
1/13/01	Department of Revenue, Use Tax (86 Ill Adm Code 150)	9/22/00 24 Ill Reg 14197	12/12/00
1/14/01	Department of Insurance, Retrospective Compensation Agreements (Repealer) (50 Ill Adm Code 922)	9/15/00 24 Ill Reg 13797	1/9/01

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/14/01	Illinois Housing Development Authority, Affordable Housing Program (47 Ill Adm Code 360)	9/15/00 24 Ill Reg 13795	1/9/01

EXECUTIVE ORDERS

2000-15

EXECUTIVE ORDER REGARDING TEAM PERMITTING

WHEREAS, the State Government Accountability Council within the Office of Statewide Performance Review has submitted its preliminary report as required under paragraph 5 of Executive Order Number 7 (1999); and

WHEREAS, the report of the State Accountability Council contained recommendations worthy of implementation, including one to develop a team approach to environmental permitting, licensing and rulemaking to increase the coordination, consistency and efficiency of those processes; and

WHEREAS, the Council has found that the current system involves certain duplicative and unnecessary permitting, licensing and other documentation or reporting requirements that impose unnecessary costs on the regulated community that impede economic growth without providing commensurate environmental protection benefits or any increase or improvement in citizens' right to access information to evaluate the relationship economic growth and environmental impact; and

WHEREAS, additional study and consideration by the various State agencies involved in energy and natural resource regulation are necessary to access the scope of duplication and overlap to most effectively address the recommendation without diluting important environmental benefits; and

WHEREAS, by Executive Order the Governor created the Environment and Natural Resource Leadership Cabinet (Leadership Cabinet), the members of which have jurisdiction over and ready access to the information needed to access the implications associated with implementation of this recommendation;

THEREFORE, I, GEORGE H. RYAN, hereby order the following:

1. Each member of the Leadership Cabinet shall assure that the Department or Agency over which s/he has jurisdiction shall:
 - a. Identify and briefly describe each permit, license, or documentation that the Agency requires the regulated community to obtain;
 - b. Identify and briefly describe each report that the Agency requires the regulated community to compile and file;
 - c. State the statutory and/or regulatory basis for each such permit, license, document or report;
 - d. Indicate whether the permit, license, document or report is required pursuant to federal law or regulation, and if so, give title and citation of such federal law or regulation;
 - e. Provide an analysis of whether the permitting, licensing, documentation or reporting requirements of the Agency are identical to the federal requirements; if not a summary of the differences and the environmental benefits of such differences;
 - f. Identify each regulation, to the extent possible, within the time period provided, which imposes a requirement on the regulated community that is not required by or exceeds federal law or regulation, and the environmental benefits of such regulation;
2. Each member of the Leadership Cabinet shall submit his/her individual Agency report to the Governor's Senior Advisor for Environment and Natural Resources by December 31, 2000.
3. Each member of the Leadership Cabinet shall cooperate in the

compilation of a joint report which, in addition to the above findings, shall:

- a. Identify and compare those permits, licenses, documents or reports that address or include identical and/or similar operations, requirements or information requests;
 - b. Analyze the potential for program consolidation and/or elimination for any such duplicative or similar permit, license, document, report or requirement. If the finding is that consolidation or elimination is not possible, the Natural Resource joint report shall describe the impediments to such programmatic changes and the environmental benefits attained by maintaining separate programs;
 - c. Benchmark the scope and number of distinct permits and reports required by Illinois in comparison to other states, to the extent possible within the study's parameters and time frames; and
 - d. Recommend those specific permit, license, documentation and reporting requirements to be modified, consolidated or eliminated, the steps necessary to achieve such programmatic changes, and the Agency to be responsible for successor permits, licenses, documents or reports.
4. The Governor's Senior Advisor for Environment and Natural Resources shall, by December 31, 2001, assure that a final report is prepared covering the findings of the above-required research.
5. The findings shall be developed as a report and shall be submitted to the Office of Statewide Performance Review. Further, the report shall be submitted to the Governor for review and consideration. The Senior Advisor to the Governor for Environment and Natural Resources shall work with the respective agencies to develop and implement programmatic change by means of legislation, regulation or policy directive as is appropriate.
6. This Executive Order Number 15 shall become effective upon filing with the Secretary of State.

Issued by the Governor November 29, 2000.

Filed with the Secretary of State November 29, 2000.

Rules acted upon during the calendar quarter from Issue 43 through Issue 53 are listed in the Issues Index by Title number, Part number and issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnalale@cgate.sos.state.il.us on the Internet.

PROPOSED

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